



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/1990/SR.30
28 September 1990

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 28 August 1990, at 3 p.m.

Chairman: Mr. TÜRK

later: Mr. TREAT

CONTENTS

The new international economic order and the promotion of human rights

(a) The role and equal participation of women in development

The realization of economic, social and cultural rights

* The summary record of the second part (closed) of the meeting appears
as document E/CN.4/Sub.2/1990/SR.30/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They
should be set forth in a memorandum and also incorporated in a copy of the
record. They should be sent within one week of the date of this document to
the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the
Sub-Commission at this session will be consolidated in a single corrigendum,
to be issued shortly after the end of the session.

GE.90-13441/2434B

best copy available

The meeting was called to order at 3.15 p.m.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS

- (a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 7)
(E/CN.4/Sub.2/1990/NGO/11)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8)
(E/CN.4/Sub.2/1990/19; E/CN.4/Sub.2/1990/NGO/8, 16; E/CN.4/1990/8;
E/CN.4/Sub.2/1989/19)

1. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 7, said that it had been on the Sub-Commission's agenda since 1979. The Sub-Commission, in its resolution 1985/34, had decided to consider the item on a biennial basis but, in its resolution 1989/1, had decided to consider the item on an annual basis.

2. With regard to sub-item (a), the Sub-Commission had initially proposed to include a sub-item entitled "Prevention of discrimination and protection of women" in the agenda for its thirty-seventh session, in 1984. At its forty-first session on 4 December 1986, the General Assembly had adopted resolution 41/110 entitled "The role of women in society", in which it requested the Secretary-General to pay due attention to all the interrelated aspects of the role of women in society, in particular when preparing surveys on the role of women in development. Subsequently, at its thirty-ninth session, the Sub-Commission had adopted resolution 1987/26 entitled "The role and equal participation of women in development" in which it decided to consider at its forty-first and future sessions, in connection with the agenda item entitled "The new international economic order and the promotion of human rights", a sub-item entitled "The role and equal participation of women in development". The Sub-Commission had also requested the Secretary-General to make available to it at each of its future sessions the reports of the Committee on the Elimination of Discrimination against Women and of the Commission on the Status of Women.

3. At its forty-fourth session, on 19 December 1989, the General Assembly had adopted resolution 44/171 entitled "Integration of women in development", in which it referred to the World Survey on the Role of Women in Development, published in 1989 by the United Nations, and requested that an updated survey should be submitted to it in 1994.

4. The General Assembly had also adopted, on 8 December 1989, resolution 44/74 on the United Nations Development Fund for Women, and resolution 44/78, of the same date, on the improvement of the situation of women in rural areas.

5. The Sub-Commission had before it at the present session, the most recent reports of the Committee on the Elimination of Discrimination against Women, and of the Commission on the Status of Women.

6. Introducing agenda item 8, he said that the Commission on Human Rights, at its forty-third session, in resolution 1987/19, had requested the Sub-Commission to examine the conclusions and recommendations of the report of the Commission entitled The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress and to submit to the Commission, at its

forty-fourth session, a proposed timetable for updating those conclusions and recommendations, taking into account the activities of the specialized agencies, other United Nations bodies and organs, and intergovernmental organizations, Governments and non-governmental organizations, and keeping in mind the importance of maintaining a specific human rights focus in examining the issues raised in that report. The Commission had also requested the Sub-Commission to consider, in accordance with its resolution 1983/35 of 6 September 1983, the preparation of a study on the impact on human rights of the policies and practices of the major international financial institutions, most notably the International Monetary Fund and the World Bank.

7. At its thirty-ninth session, in its resolution 1987/29 A, the Sub-Commission had recommended to the Commission on Human Rights and the Economic and Social Council, in response to Commission resolution 1987/19, that the Sub-Commission be authorized to appoint, from its members to be elected in 1988, a special rapporteur to study problems, policies and progressive measures relating to the more effective realization of economic, social and cultural rights. The special rapporteur would be requested to submit a substantial progress report to the Sub-Commission at its forty-first session. The Commission, in its resolution 1988/22, had invited the Sub-Commission to appoint a special rapporteur for that purpose.

8. At its fortieth session, the Sub-Commission, in resolution 1988/33, had decided to entrust Mr. Danilo Türk with a study of problems, policies and progressive measures relating to the more effective realization of economic, social and cultural rights, and had recommended that the Special Rapporteur take account of the guidelines and issues contained in Sub-Commission resolution 1987/29 A.

9. At its forty-fifth session, in resolution 1989/13, the Commission had endorsed the undertaking of that study and requested that priority be given to identifying practical strategies to promote for everyone the economic, social and cultural rights contained in the Covenant, paying particular attention to the most vulnerable and disadvantaged. The Economic and Social Council, in its decision 1989/39, had also endorsed the appointment of the Special Rapporteur, Mr. Danilo Türk.

10. At its forty-first session, by its resolution 1989/20, the Sub-Commission had welcomed the preliminary report prepared by the Special Rapporteur (E/CN.4/Sub.2/1989/19) and had requested him to prepare a progress report taking into account comments made in the discussion on the preliminary report. By the same resolution it had also decided to consider that progress report at its forty-second session under a separate item entitled "The realization of economic, social and cultural rights".

11. By its resolution 1990/17, the Commission on Human Rights had welcomed the dialogue between the Committee on Economic, Social and Cultural Rights and the Special Rapporteur of the Sub-Commission on the realization of economic, social and cultural rights, Mr. Danilo Türk, and had expressed the hope that the dialogue would continue; invited the Special Rapporteur, when preparing his progress report, to take into account comments made in the Commission on Human Rights; and requested that in the report priority be given to identifying practical strategies to promote for everyone the economic, social and cultural rights contained in the Covenant, paying particular attention to the most vulnerable and disadvantaged.

12. On the topic of foreign debt, economic adjustment policies and their effects on the enjoyment of human rights, he recalled that the Sub-Commission, by its resolution 1989/21, had affirmed that any foreign debt strategy must be designed not to hamper the steady improvement of conditions guaranteeing the enjoyment of human rights and must be intended, *inter alia*, to ensure that debtor developing countries achieved an adequate growth level to meet their social and economic needs and their development requirements; stressed the need to revive the economic growth and development of those countries, reduce the political and social costs of structural adjustment programmes and to guarantee the necessary conditions for the full enjoyment of all human rights; and invited the Special Rapporteur, Mr. Türk, to take those factors into account in his study.

13. The Commission on Human Rights, in its resolution 1990/24, had requested the Special Rapporteur to take into account, in his progress report, the comments and views of Governments which desired to provide him with their comments and the information at their disposal about their experience concerning the impact of economic adjustment policies arising from foreign debt on the enjoyment of economic, social and cultural rights.

14. On the question of human rights and extreme poverty, he said that, at its forty-sixth session, the Commission on Human Rights had adopted resolution 1990/15, in which it reaffirmed that extreme poverty and exclusion from society constituted a violation of human dignity and that urgent national and international action was therefore required to eliminate them; requested the Sub-Commission when giving attention, in accordance with its resolution 1989/20, to problems, policies and progressive measures relating to more effective realization of economic, social and cultural rights, to examine the question of extreme poverty and exclusion from society in greater depth and to carry out a specific study of that question.

15. Other resolutions relevant for the item under discussion were Commission on Human Rights resolution 195J/14 on "Popular participation in its various forms as an important factor in development and in the full realization of all human rights", and resolution 1990/18 on "The right to development".

16. At the present session, the Sub-Commission would have before it the progress report by the Special Rapporteur (E/CN.4/Sub.2/1990/19).

17. The CHAIRMAN reminded members that at its 26th meeting the Sub-Commission had taken a decision on certain human rights-related questions which were now particularly relevant and in the focus of public attention. On the previous morning he had stated that the second part would be announced when agenda item 8 was reached. He now read out the second part: "On the grounds of human rights and humanitarian law, we strongly appeal to all those participating in sanctions against Iraq not to prevent the delivery of necessary food and medicine".

18. As Chairman of the Sub-Commission he wished to add the following: "This part of the decision was phrased in the spirit of the relevant elements of Security Council resolutions adopted earlier regarding this question and this may be an element to be kept in mind when this part of the decision is announced in the public meeting of the Sub-Commission".

19. He invited the Sub-Commission to continue its consideration of agenda items 7 and 8.
20. Mrs. KSENTINI, speaking on a point of order, said that when those appeals were adopted there had been a gentlemen's agreement that there would be no debate on the issue. She had refrained from speaking at the time and, in the same spirit, she requested that the debate on that aspect of the question should not be reopened.
21. The CHAIRMAN said that he had read out the relevant part of the Sub-Commission's decision and had added an important element which illustrated the spirit in which the decision had been formulated.
22. Mr. EIDE said that he was satisfied with the Chairman's clarification of the situation in pointing out that the appeal had been made in accordance with Security Council resolution 661 (1990).
23. Mrs. PALLEY endorsed Mr. Eide's comment.
24. Mr. TREAT, speaking on a point of order, said that he wished to be absolutely clear that the Sub-Commission had taken the decision in the spirit of Security Council resolution 661 (1990) and that it was part of a single issue under two separate agenda items, namely, items 7 and 8.
25. The CHAIRMAN said that the Sub-Commission had decided that the decision would be made public under two different agenda items.
26. Mr. Treat took the Chair.
27. Mr. ZHAN DAODE, referring first to agenda item 7, said that many experts had stressed the importance of establishing a new international economic order with a view to the promotion of human rights. He fully agreed with them, but wished to stress certain points.
28. The establishment of a new international economic order was essential for establishing the right to development. The 1980s had shown that the deterioration in external economic conditions was a major obstacle to the economic development of the majority of developing countries. It was extremely difficult to promote economic, social and cultural rights in the framework of the current irrational international economic order, which fostered the developed countries' economic growth at the expense of the economic interests of the vast majority of developing countries. Unequal international trade was a typical example.
29. In discussing human rights, it was impossible to ignore the fact that three quarters of the world's population lived in the developing countries, in conditions of poverty and underdevelopment, and that the high ideals of the Universal Declaration concerning the right to enjoy economic and social development could be only distant objectives. He had observed that in recent years, on the international scene, some people talked about civil and political rights but were silent about economic, social and cultural rights. Both types of human rights were equally important and should have the universal respect that was essential for promoting them. It was important also not to overlook the right to development for the vast majority of the world's population.

30. There were now 120 developing countries, including 42 of the least-developed with a population of 340 million - nearly the entire population of the Western countries. According to World Bank statistics, the Western countries had a gross national product (GNP) of \$11,080, compared with a figure of \$884 for the developing countries and \$221 for the least-developed. The developed countries' GNP was thus 12 times that of the developing countries and the North-South gap continued to widen.

31. According to the World Economic Survey, 1990 the economic growth of the developing countries was likely to be the same for 1990 as for 1989. In addition, the developing countries' debt burden was seriously disrupting their economies, representing a large percentage of their exports and their GNP, especially in the Latin American countries. It was clear that, unless the international economy were reformed, it would be impossible to solve the problems of the developing countries. The establishment of a new international economic order was therefore particularly significant and urgent, especially in relation to human rights, because the present situation prevented three quarters of the world population from enjoying their economic, social and cultural rights.

32. The only solution was concerted effort by the international community. The major developed countries had a special responsibility and should at least adopt a positive attitude towards measures of alleviation. Those measures should include: significant reduction of the developing countries' total debt and easing of their debt burden; speedy reversal of the flow of funds from the developing to the developed countries; an end to protectionism, an increase in developing country products, and elimination of tariff and non-tariff barriers to the developing countries' exports; stabilization of primary commodity prices; active transfer to the developing countries of technology needed to develop their human and other resources; special assistance to the least-developed, low-income and geographically disadvantaged countries and those suffering natural disasters; and elimination of the developing countries' poverty as a matter of priority.

33. Another factor that should be taken into account was that political development and economic development were related. In today's world, economic development in different countries and regions was not uniform, because cultural traditions differed. To adopt norms or models in one State for application to other States was unrealistic and inappropriate.

34. Mr. TÜRK, Special Rapporteur, introduced his progress report on the realization of economic, social and cultural rights, contained in document E/CN.4/Sub.2/1990/19, the subject of which seemed to be closer to the Sub-Commission's original mandate which related to the concept and realization of human rights. The question of the realization of economic, social and cultural rights had, for a long time, failed to receive the attention it deserved, a matter which had been discussed in various contexts, usually with the conclusion that something must be done. For example, studies should be made that would give more content to the debate on economic, social and cultural rights. Experience had shown that if the Sub-Commission wished to pay more attention to a problem, it should make sure that it produced its own material, that studies should be made by its own members. It was not enough to have analytical material from elsewhere in the United Nations system.

A considerable amount of work had already been carried out by other agencies in the United Nations system, but not much had been done by the Sub-Commission itself, apart from an excellent study by Mr. Eide on the right to food (E/CN.4/Sub.2/1987/23), some years earlier.

35. His own study was, in a way, experimental. As he had said in 1989 when introducing his preliminary report (E/CN.4/Sub.2/1989/19), he could not attempt to make a study or report which would cover all the relevant questions, and selection would be necessary. In his progress report now before the Sub-Commission he had selected problems which seemed to him to be relevant and important for discussion at the present stage.

36. The progress report placed great emphasis on social and economic indicators and their role in the realization of economic, social and cultural rights (Chapter I). It considered the question of future standard-setting in the area of economic, social and cultural rights (Chapter II). The question of extreme poverty was dealt with in Chapter III. He now wished to draw attention to the following points.

37. Regarding indicators, it was important for human rights bodies willing to engage in serious debate on the realization of economic, social and cultural rights to be able to assess progress. To that end, it was necessary to devise appropriate methods that would enable the task to be completed successfully. The idea of economic and social indicators was not new; it had existed in the social sciences and had been used in the United Nations system. The need was not to create something new, but to see if existing methods based on indicators could be useful in the context of human rights discussions. The idea had been mentioned in a number of debates in the Sub-Commission and the report contained references to work that had been done in that field. Paragraph 29 contained a summary of ideas concerning indicators and paragraph 91 invited comments and suggestions from the Sub-Commission. Paragraph 84 discussed the possible use of the Lorenz Curve.

38. The International Covenant on Economic, Social and Cultural Rights provided that standard-setting might be used as an important and necessary element in the realization of the content of the Covenant. Consequently, standard-setting in the area of economic, social and cultural rights should not be seen solely as a matter of standards as such, but also as an exercise that attempted to provide more specific content and thus be helpful in the process of realizing those rights.

39. In his preliminary report (E/CN.4/Sub.2/1989/19), he had made a few comments on certain areas in which future standard-setting could go ahead. He had not repeated all those references in his progress report, but had tried to place more emphasis on the right to adequate housing, a subject often mentioned in Sub-Commission debates; he had dealt with the question of land rights; and he had tried to show which elements of existing norms in the human rights field would be useful in standard-setting.

40. He looked to the Sub-Commission to say whether he was working on the right lines. In the event of support, he would be more than willing to proceed accordingly. If there were discouragement, however, he would take the comments of members duly into account.

41. The chapter on extreme poverty had been included because attention had to be focused on the people who suffered most. In preparing that part of the report, he had been greatly assisted by the non-governmental organization that had been most active in that field so far, the International Movement ATD Fourth World. When approaching the question of the realization of economic, social and cultural rights from a methodological standpoint, it seemed as if the rights concerned were measurable and that the whole problem could be reduced to technical aspects. That might be a dangerous illusion. The question of poverty, and consequently the question of the realization of economic, social and cultural rights, was a deeply moral matter and should be viewed as such by bodies dealing with human rights. Thus, there was a need to investigate it in the way proposed in Chapter III. When preparing that chapter, he had been aware that the Commission on Human Rights had already taken action to deal with the question of extreme poverty in its totality. It was already recognized that extreme poverty did not affect the realization only of economic, social and cultural rights, but also of civil and political rights. It therefore had to be seen as a phenomenon that required attention as such. Consequently, he suggested that the Sub-Commission should consider the possibility of entrusting another member with the task of analysing the question of extreme poverty in all its dimensions.

42. With regard to his preliminary recommendations contained in paragraphs 218-220, he considered that the work on indicators should be continued. A variety of methods could be explored in that context. He had suggested that a special seminar be organized in 1992-1993 under the United Nations programme of human rights activities for discussion of appropriate indicators to measure achievements in the progressive realization of economic, social and cultural rights. He would, however, continue to explore the question of indicators himself.

43. He had also started work on certain other questions relating to the realization of economic, social and cultural rights, but he had not yet reached the stage in which he could set forth his findings in a progress report. Those questions included structural adjustment and the role of international financial institutions. He suggested that a second progress report be prepared to deal primarily with those aspects. He had already collected some literature on them but he had not been able to establish direct contact with the relevant international agencies. The Secretariat had given him valuable assistance in that respect, but more would be required.

44. Mr. EIDE said that the realization of economic and social rights had received too little attention in the past, partly owing to the problem of understanding what was involved. There were two aspects. One was to find ways to assess the degree to which the rights were enjoyed by the different sections of the population, and the other was to determine what the obligations of Governments were in ensuring, for all their citizens, the full range of economic and social rights. There was, admittedly, a related third problem, which was to clarify the various economic and social rights and, if necessary, to proceed to further standard-setting.

45. Mr. Türk had extensively examined the possible indicators that might be used to determine the extent of realization of economic and social rights. He had also explored the use of indicators by human rights monitoring bodies, relying on the obligations of States parties under article 2 of the

International Covenant on Economic, Social and Cultural Rights. Mr Türk had also explored ways in which indicators could be of use in measuring State performance. It was a very fruitful report, although more work needed to be done in determining which indicators would be the best to use.

46. In paragraph 88 Mr. Türk made the very important point that indicators should give not only overall national measurements but also regional measurements at various levels. It might also be useful to have indicators for different ethnic or racial groups. However, since that could be controversial, much could be gained from comparisons at the local level. In short, Mr. Türk had already made substantial progress in harnessing the indicator "movement" to the concern for monitoring human rights performance in the economic and social fields, but more needed to be done.

47. In future standard-setting in regard to economic, social and cultural rights, what should be involved was probably not the adoption of new rights but the clarification of the standards for the implementation of existing rights. That was particularly clear in regard to the right to adequate housing. It could be useful to initiate a study on the right to housing comparable to that made by himself on the right to food (E/CN.4/Sub.2/1987/23). Land rights and agrarian reform was a much more complicated area. The question posed by the World Commission on Environment and Development, quoted in paragraph 137 (b) of the report, was perplexing. The insight gained through the continued study of the matter might help to answer it.

48. Mr. Türk's examination, in Chapter III, of the question of extreme poverty, the elimination of which should be the first priority in efforts to promote the realization of human rights, was particularly helpful. He endorsed Mr. Türk's preliminary recommendations.

49. He wished to draw attention to an urgent matter relating to economic and social rights. In Kuwait, a number of embassies had been surrounded by Iraqi occupation forces and apparently there was an intention to carry out a policy of depriving the persons inside them of food supplies and even of water. It was possible to do without food for some days, but deprivation of water was extremely serious. When the modest supplies within the Embassies were at an end, the personnel would be at serious risk. The Sub-Commission must therefore urgently call on the occupying forces not to use starvation and deprivation of water as a weapon in the conflict.

50. It was obvious that the embargo was not intended to violate the basic human rights of the Iraqi people, including the Kurds. In particular, the fundamental right to be free from hunger and the right to health must remain protected. On the other hand, the Security Council had adopted mandatory sanctions which were intended to oblige the aggressor to withdraw. To the extent compatible with basic human rights, those sanctions must be applied to the full. Consequently, there was a need to solve the problem of securing access to, and distribution of, necessary food. The international community must express its willingness to ensure that, but only in ways which did not weaken the embargo. The basis for that was to be found in paragraph 4 of Security Council resolution 661, (1990).

51. He had some thoughts on how it could be done. The provision of such supplies should await a request by the medical and food authorities of Iraq,

stating that domestic and stocked supplies were insufficient to prevent hunger or disease. Such a request should be accompanied by a plan for the equitable distribution of the food produced inside Iraq and Kuwait. Prior to the release of international supplies, a rationing system must be established, as well as a system for the international monitoring of its equitable application. It would also be necessary to co-ordinate the supplementary supplies from outside required to ensure that basic necessities were met, and to ensure that they were equitably distributed inside Iraq and Kuwait, probably on the same basis of rationing. International humanitarian organizations enjoying general respect should be called upon to ensure equitable distribution.

52. Mrs. MBONU said that the numerous cases of human rights violations in the developing countries underlined the link between the enjoyment of human rights, especially economic, social and cultural rights, and a country's level of economic development. The fragile economic condition of most developing countries was the product of the current inequitable nature of economic relations between States, characterized by the low prices of primary or semi-processed products exported by the developing countries in comparison with the inflated prices of industrial goods from the developed countries, the protectionist policies of the developed countries and the control which they exercised, through their voting rights, over the major international financial institutions. The outcome of all that was that the developing countries, with three quarters of the world's population, accounted for only one fifth of its income and thus lived in absolute poverty without enjoying even the most basic human rights such as food, health and education. The developing countries were also struggling under a burden of external debt with which they were obviously no longer able to cope.

53. In his report, Mr. Türk had identified two priorities that should be tackled at the national level for the realization of economic, social and cultural rights - extreme poverty and structural adjustment. He had observed that the latter could have positive effects on the alleviation of poverty but that those effects would not be sustained unless there was growth; and growth, he had observed, could come only through a change in the current world power structure which could bring about the kind of economic order necessary for greater enjoyment of economic, social and cultural rights in the developing countries.

54. She agreed that economic, social and cultural rights, especially economic rights, on the one hand, and civil and political rights, on the other, should be given equal importance and therefore endorsed the recommendations made by the Special Rapporteur in paragraphs 218, 219 and 220 (a) of his report. As for the recommendation contained in paragraph 220 (b), in which the Sub-Commission was invited to suggest areas in which further standard-setting might be considered necessary, she suggested that, in addition to the recommendation contained in paragraph 220 (c), a study should be made on the effect of the debt burden on the enjoyment of economic, social and cultural rights. It should take into account the indivisible nature of economic, social and cultural rights and of civil and political rights. Either one member of the Sub-Commission could undertake a study on extreme poverty and the effects of the debt burden on the enjoyment of human rights, or two members could make two separate studies. In any case, more attention should be given to the enjoyment of economic, social and cultural rights.

55. Mrs. BAUTISTA congratulated Mr. Türk on his development of the subject of indicators for monitoring the realization of economic, social and cultural rights. The greatest section of the world's population deprived of those rights were the poor. Poverty was a state of continuous violation of human rights, both civil and political rights and economic, social and cultural rights. The basic right to life included the right to food, shelter and health. To attain that, there must be development and the right to earn a living.

56. In the developing countries, women and children suffered most. They were overburdened with the tasks which underdevelopment had imposed on them for years. They lacked food and clothing.

57. Pollution and the destruction of the environment were due to new technologies and to the over-exploitation of resources. Farmers and fishermen were being deprived of their customary sources of livelihood. The effects of massive destruction of the environment must be included in the consideration of economic, social and cultural rights.

58. In the developing countries, Governments were unable to deliver basic services to their peoples. As a result, there was discontent, insurgency, demonstrations and violence, and human rights were violated in their suppression. Social, economic and cultural rights must therefore be studied together with civil and political rights.

59. Mr. KHALIL said that there was no need to stress the hardships which the developing countries were continuing to suffer in their endeavours to realize their legitimate aspirations to economic, social and cultural development. As a former chairman of the Group of 77 in New York, he had experienced the series of disappointments encountered in the developing countries' genuine efforts to launch the North-South dialogue. Real economic difficulties and social destabilization were being caused by IMF's prescription for dealing with economic ills, which included reducing food subsidies, raising prices to limit an already low level of consumption, increasing exports, and restricting imports. The topic to which Mr. Türk had devoted so much effort was therefore of the utmost importance to developing countries in their painful endeavours to secure the economic, social and cultural rights of their peoples. The progress report now before the Sub-Commission rightly stressed the importance of using indicators and pointed out the major imperfections in the monitoring of compliance with the obligations undertaken by States. A great deal of thought had also been given to the question of standard-setting. He fully supported the Special Rapporteur's preliminary recommendations, particularly the need for a second progress report to cover certain questions that required further study, including the question of the realization of economic, social and cultural rights in the context of structural adjustment and the role of international financial institutions in the realization of those rights. He fully supported the Special Rapporteur's endeavours to establish contacts with the international financial institutions and looked forward to his presentation of the results of his high-level contacts at the next session of the Sub-Commission. He also supported the Special Rapporteur's suggestion that the Secretary-General should be invited to render all necessary assistance with a view to establishing contacts with the relevant departments at United Nations Headquarters, as well as his recommendation concerning the organization of a seminar on indicators.

60. Mr. FLINTERMAN said that in the two reports which Mr. Türk had presented so far, he had made it clear that the Sub-Commission could no longer avoid dealing with the complex and challenging problems relating to the realization of economic, social and cultural rights. The Special Rapporteur, and with him the Sub-Commission, might well be embarking on yet another impossible mission. However, that mission must be undertaken in the coming decade in order to preserve the Sub-Commission's credibility as a human rights body committed to the idea of the indivisibility and interdependence of all human rights.

61. He suggested that agenda items 7 and 8 should be clustered in a single agenda item. Moreover, it was clear that the topic of Mr. Türk's study was so broad in scope that it would be impossible for one rapporteur to cover all the relevant aspects. Mr. Türk had already recommended, in line with Commission on Human Rights resolution 1990/15, that the Sub-Commission appoint one of its members as a special rapporteur on the issue of extreme poverty. That recommendation had been followed up in draft decision E/CN.4/Sub.2/1990/L.31. In view of the growing number of studies undertaken by members of the Sub-Commission, it was important to draw up a medium- and long-term programme of studies in which studies on various aspects of the realization of economic, social and cultural rights would be given a prominent place.

62. He also supported the proposal contained in paragraph 219 of the report that there should be direct contacts with the international financial institutions, notably the World Bank and IMF.

63. Further standard-setting might be necessary as, for example, in the case of the right to adequate housing. Various in-depth studies made by different agencies in the United Nations system had clearly shown the imperative need for more detailed international rules. As regards land rights, he agreed with Mr. Türk that the issue was of great relevance for the preservation of human dignity and required more thorough study. Such a study should focus on the manifold national practices and legislation. It might also be wise to await the results of the ongoing discussion on the draft declaration on indigenous rights which focused partially on land rights.

64. He had been particularly impressed by the chapter on social and economic indicators which surveyed the indicators used by various United Nations agencies and attempted to describe core indicators which might play a role in the realization of economic and social rights. It was clear that more work should be done but the basis for further research was a solid one. In paragraph 68 of his report, Mr. Türk noted that many United Nations agencies which collected and used various indicators in their own work had yet to recognize the distinct and direct links of that activity with human rights concerns. It might be worth stimulating such agencies to establish within their own structures human rights offices which would have the task of relating the indicators and activities of the agencies to human rights concerns.

65. In conclusion, he warmly congratulated Mr. Türk on his progress report.

66. Mr. JOINET said that, as he had already submitted comments in writing, he would confine himself to drawing attention to the relationship which existed between landholding and extreme poverty.

67. Mr. BARSH (Four Directions Council) noted that, in his progress report, Mr. Türk had concentrated on the question of indicators. The Four Directions Council welcomed that approach. The suggested list of "core indicators" was a step in the right direction, but the Special Rapporteur might further refine that aspect of his work through practical activities such as direct contacts with United Nations bodies and specialized agencies that published statistical information, in particular the Centre for Social Development to make arrangements for co-operative research; co-ordination with the research undertaken by UNRISD on indicators of consumption; and convening a technical conference on problems of gathering and verifying statistical indicators, in co-operation with the regional economic commissions. The Four Directions Council would like to see emerge from that process a basic list of critical indicators which could be made readily available in regular United Nations statistical reports.

68. In the view of his organization, the most important set of indicators had thus far been left out of the study. Those were indicators of the extent and quality of popular participation in decision-making or, in other words, indicators of genuine democracy, particularly with respect to economic and social planning and development. The participation of organizations, groups and communities, through their own democratically established institutions and representatives, was a major factor in the success of development projects as had been recognized both by the General Assembly and the UNDP Governing Council. At a time when so many other United Nations bodies were emphasizing the importance of strengthening popular participation as a development strategy, there had been a strange silence concerning the role of participation as a fundamental human right. Participation was, in fact, the critical link between economic, social and cultural rights, on the one hand, and civil and political rights on the other. It was a civil and political right under Article 25 of the International Covenant on Civil and Political Rights and its effective exercise enhanced the realization of all other rights, including economic and social rights.

69. Since evidence of genuine participation was also an indication of the quality and effectiveness of measures for enhancing economic and social rights, participation should form an integral part of any basic list of indicators. The Global Consultation on the Right to Development had identified some elements of participation which could be used for that purpose, namely: freedom of association, expression and democratic action; representativity and accountability of leadership; access to relevant information; decentralization of planning and decision-making; and the effectiveness or influence of popular action on decisions.

70. The same comments applied to the proposed study of human rights and the environment. The problem of the environment was one of extremes of wealth and poverty. Extreme wealth was associated with excessive consumption of resources while extreme poverty necessitated the over-utilization of very limited resources for mere survival.

71. The Four Directions Council accordingly supported the view that participatory development was a precondition for the effective protection of the global environment and hoped that that principle would be given a central role in the studies to be prepared by Mrs. Ksentini.

72. Miss SPALDING (International Commission of Health Professionals) said that her organization was deeply committed to the promotion of human rights as a form of societal good health. Respect for the individual was tantamount to the creation of a new order. Any time any individual was excluded from the mainstream of life, all were impoverished.

73. A recent editorial in "Transnational Perspectives" had underlined that large segments of society had always been excluded from cultural knowledge; those included, women, the young and lower or marginal castes. She herself would add disabilities to that list. Such people were often perceived as incapable of cultural knowledge and life or too flawed to enter into it.

74. In 1974, the Sub-Commission had taken the initiative which had resulted in the adoption by the General Assembly of the Declaration on the Rights of Disabled Persons which had called for national and international action. On 26 July 1990 the President of the United States had signed into law the American Disabilities Act 1990. Every man, woman and child in the United States with a disability could now pass through once closed doors into a bright new era of equality, independence and freedom. Society was indeed being opened up, from public transportation to employment, from telecommunications to public accommodation. The interest displayed by other Government and international bodies was also very encouraging as it indicated an intent to consider applying similar actions to their own national or group legal systems. That was dynamic rights formulation in action.

75. Mr. MALOUZA (International Commission of Health Professionals) said that both the Charter of the United Nations and the International Covenant on Social, Economic and Cultural Rights had stressed the goal of achieving peace through development. Unfortunately the aspirations of those member States of the Organization of African Unity which had signed the Covenant had not been reflected in the policies pursued by individual Governments. The reasons for under-development were many but in general reflected a sort of structural violence resulting from economic stagnation, illiteracy, sickness, poverty, migratory flows and the brain drain. That structural violence was a factor in political instability which was preventing the full enjoyment of the social, economic and cultural needs of the population.

76. Remedies for the underdevelopment of Africa were clearly indicated in the 1980 Lagos Plan of Action which had recommended the African States to base their development policies on regional and sub-regional co-operation and on African socio-cultural values. In order to achieve their goal there must be a firm political will on the part of the African States to democratize African society.

77. Mr. TEITELBAUM (International League for the Rights and the Liberation of Peoples), speaking also on behalf of the American Association of Jurists, drew attention to document E/CN.4/Sub.2/1990/NGO/11 which contained a statement by Luis Inacio da Silva from Brazil, Cuauhtemoc Cárdenas Solorzano from Mexico, Adalberto Carvajal Salcedo from Colombia and Jesse Jackson from the United States who were all active participants in popular and democratic social and political movements in their own countries. The statement had urged the debtor countries to establish a common strategy against the cartel of creditors and to put an end to all conditionalities imposed by rich countries and their international financial institutions like the IMF and World Bank.

78. The report of the Special Rapporteur for the current year deviated somewhat from his mandate as originally established in the Sub-Commission's resolution 1987/29. Concern for methods of evaluation and indicators was legitimate but, as those matters pertained to technical statistical issues, they lay outside the competence of the Sub-Commission. Those matters came within the purview of other bodies and agencies and were relevant to human rights to the extent that human rights were the concern of those agencies. Statistics could moreover prove many things, depending on the methods employed. For example, the World Bank continued to use Gross Domestic Product as an indicator of development although the specialized agencies had abandoned that concept which provided no guidance whatever on development as a human right.

79. The Sub-Commission should therefore not involve itself in statistical techniques but should develop a statistical policy which reflected the concept of development as a human right.

80. The Sub-Commission should concentrate on examining situations, developing standards and proposing legislative guidelines for States. That would involve a study of the ways to apply to economic, social and cultural rights the mechanisms used by the United Nations for the defence and promotion of civil and political rights. In that connection his organization would suggest that the Sub-Commission should revoke its decision 1989/102 with a view to reviving the 1503 procedure. The Sub-Commission should also continue its useful exchange with the Committee on Economic, Social and Cultural Rights and should prepare a draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and also a declaration which would condemn as international crimes the policies and practices of States, institutions and persons standing in the way of the realization of economic, social and cultural rights. It should also urge States to examine the legitimacy of the contracts which gave rise to external indebtedness and it should also examine whether the policies of IMF and the World Bank might not be in conflict with the Charter of the United Nations and other international norms.

81. In conclusion, he drew attention to the fact that those issues had been developed in a very useful report by the Secretary-General to the Commission on Human Rights in document E/CN.4/Sub.2/1990/NGO/16.

82. Mr. DONALD (Disabled Peoples' International) said that disabled women faced many barriers to participation in development programmes, including inaccessible work places, lack of education, inappropriate or non-existent vocational or rehabilitation and the absence of transportation usable by disabled women. The worst barrier for women with disabilities however was severe discrimination and prejudice, even within governmental, intergovernmental and non-governmental organizations and those who provided the funds for development.

83. His organization urged the Sub-Commission to pay particular attention to the problem and, in particular, urged the Special Rapporteur on the issue of human rights and disability to recommend to all entities and treaty bodies of the United Nations that funding should be directed at ensuring the full integration of women with disabilities in all United Nations funded or instigated development programmes. In addition, the Sub-Commission should demonstrate sensitivity to the problems of development and disabled women in all aspects of its work on development and human rights.

84. Disabled Peoples' International welcomed the emphasis placed on the issue of extreme poverty in Commission on Human Rights resolutions 1990/15 and 1990/17 because, of all the poor in the world, the poorest and the most vulnerable as well as the most disadvantaged and most excluded from society were persons with disabilities. In addition, as disabled persons represented nearly 20 per cent of the world's population, any appreciable improvement in their economic situation would result in a significant reduction of extreme poverty in the world.

85. His organization also welcomed the fact that the topic of extreme poverty was included in the Special Rapporteur's progress report. In that connection his organization wished to make the following points in the belief that they would assist the Special Rapporteur in the preparation of his final report. The situation of extreme poverty of persons with disabilities would not improve without education of disabled children and youth. The United Nations system must do far more to ensure that funds for development and the alleviation of poverty were targeted at education, employment and services for persons with disabilities. Employment opportunities and vocational training and rehabilitation were essential to ensure the economic rights of persons with disabilities and to assist in developing self-sufficiency. That area was frequently forgotten by United Nations bodies or by Governments and development funding entities. For example, very few countries had ratified ILO Convention No. 159 regarding vocational rehabilitation.

86. Disabled Peoples' International invited the Special Rapporteur to consult it and other organizations of persons with disabilities in his further work on the topic. Organizations of persons who helped disabled people might also be usefully consulted. The Special Rapporteur should also be urged to co-ordinate his work with that of the Special Rapporteur on human rights and disability.

87. Mrs. BEYELER (International Movement ATD Fourth World) thanked Mr. Türk for taking up the question of extreme poverty in his report.

88. Thanks to the Commission and the Sub-Commission, which had decided to heed the appeal of Father Wresinski, the voice of families and populations living in extreme poverty would also begin to be heard. The study on human rights and extreme poverty which had been requested by Father Joseph Wresinski in 1987 was to be realized. The right of the poorest to contribute to the body of information which was being prepared would thus be guaranteed since one of the threats to respect for human rights in situations of extreme poverty was the fact that the victims had no control over the way in which the international community viewed them. The Sub-Commission could, however, make known the available information on extreme poverty, and work out the conditions which would help the poorest to provide the United Nations with information on themselves similar to that provided by other groups and reveal the threats to human rights resulting from extreme poverty as well as strengthen the efforts of the poorest themselves to achieve a life of dignity and to assume their responsibilities.

89. Mr. DAVIES (Survival International) said that although the Somali nation, consisted of one ethnic group with a single language, it was divided into clans and groups of clans sometimes called clan-families. Several clan groupings were held to be hostile to the current régime and people belonging to them might be killed or imprisoned whether or not they were themselves

involved in anti-government activities. The Isaaq, who lived mainly in the north west of the country, were one of the principal clan families. In 1961 members of the Isaaq had been at the forefront of the movement to unite the Somali people into a single national State. Since that time, however, they had become increasingly disillusioned by what they felt to be the discrimination against them on the part of the Mogadishu Government which was based in the south of the country.

90. Discontent among the Isaaq business community and intellectuals had led to the formation of the Somali National Movement (SNM) which had conducted a low level guerrilla campaign in the north-west of the country from bases in Ethiopia. The Government had adopted increasingly harsh counter-insurgency measures including a scorched earth policy to control the rural areas along with measures to ruin the Isaaq business community. At the end of May 1988 the conflict had developed into a full-scale civil war accompanied by indiscriminate bombing by the Government of the civil population leading to an estimated total of at least 5,000 unarmed Isaaq civilians killed by March 1989. The result had been the virtual elimination of the Isaaq as an urban population and, by 1990, an estimated 300,000 were living in refugee camps in Ethiopia, the remainder being scattered in nomadic groups. In addition to abuses by the regular military, there had been violence against the Isaaq by some of the refugees previously settled in camps in the region who had been armed and recruited by the Somali Government. That situation had laid the refugee community open to retaliation by the SNM.

91. Among several hundred Isaaq detained by the authorities on suspicion of being SNM sympathizers were prominent businessmen and political leaders who had in fact no connection with the rebels. Isaaq civilians in the south had also lost their lives and, on 16 July 1989, 47 Isaaq males had been rounded up by the military police in Mogadishu and later shot.

92. Mr. GUMILAR (Liberation) said that the present period of development policy in Indonesia, known as "Pancasila Democracy", was devoted to economic development, with the focus on reversing economic decline. Political stability had been imposed by means of a single loyalty: everyone must believe only in Pancasila, the "sole principle".

93. Political culture in Indonesia had declined. Today there was no such thing as people's participation, the essence of democracy. All power was centralized, the bureaucracy prevailed and there was a crisis of legitimacy. Indonesian political culture suffered from the weakness of people's organizations, the weakness of the middle class and its dependence on the State. All that had bred a culture of keeping silent, of opposing change and of disregarding basic human rights, including collective and traditional rights. Basic human rights were violated by an apparatus of repression and the enactment of unjust laws that excluded people's participation and benefited the ruling power, restricting the right to organize, the right of assembly, freedom of speech and the right to decent social services. A false perception had been created, based not on an awareness of rights but only on obedience and duty.

94. The militarization of society had resulted in rigidity and authoritarianism in all sectors, producing a bureaucratic, repressive and fascist system.

95. The most serious violations of people's collective and traditional rights were perpetrated by the ruling clique and powerful capital interests, which not only trampled underfoot the people's self-respect but destroyed their productive activities, reducing them to dire poverty. He welcomed Commission resolution 1989/13 which drew attention to the economic, social and cultural rights of the the most vulnerable and disadvantaged members of society. He wished to give the Sub-Commission some idea of the kind of violations occurring in Indonesia.

96. Pulau Panggung in South Lampung was a transmigration region where after 1959 some 1,000 transmigrant families had created a prosperous coffee plantation economy. The transmigrants had ultimately become lawful local inhabitants with full land rights. In November 1988, the sub-district chief had issued an instruction that 1.5 million hectares must be vacated, including all the land owned by the transmigrant families. They refused to move and next day their homes were burnt down, along with stocks of rice and coffee and all their personal possessions. In February 1989, hundreds of Pulau Panggung peasants, escorted by human rights activists, had taken their complaint to Parliament in Jakarta. On their return home, the security forces had intimidated the peasants while army intelligence hunted down the activists.

97. A similar case had occurred in Cibodas, West Java, involving land used to grow vegetables since 1948; 286 families living off that land had been told to leave and make way for a golf course and tourist accommodation. In Blangguan, East Java, villagers had been ordered to move from their kampung to make way for a training-ground for marines. In Majalengka, Cirebon, West Java, agricultural land was being vacated for an air force base. In Central Java, the inhabitants of two villages had been told to move out in order to make way for tourist attractions.

98. In Central Java, many thousands of peasant families had resisted orders to vacate land for a World Bank-funded dam in Kedung Ombo, rejecting the pitiful compensation offered and defying orders to move to transmigration sites many hundreds of miles away. In accordance with Sub-Commission resolution 1983/35, he urged that the case, which was a clear example of how human rights abuses resulted from the practices of the World Bank, should be studied.

99. Mr. RETUREAU (World Federation of Trade Unions) said that the Charter of the United Nations and the Universal Declaration of Human Rights did not establish an order of seniority between civil and political rights and economic, social and cultural rights. The fact that those rights gave rise to two different covenants and monitoring systems in no way changed their indivisible nature.

100. It had been the experience of the trade union movement that possession of political rights did not guarantee workers social, economic and cultural rights that would enable them to live in dignity and to satisfy their essential needs, which were spiritual and intellectual as well as material.

101. Civil and political rights tended to remain abstractions when democracy did not extend to the sphere of production and trade, to trade-union rights and the rights of workers to participate in the management of enterprises and

to have a choice in respect of economic and social policies. Reciprocally, social and economic rights tended to diminish if they did not go hand in hand with the genuine implementation of civil and political rights in social and working life.

102. In the apartheid system, for instance, racial discrimination was both political and economic. The denial of civil and political rights was coupled with discrimination in access to education and in wages, qualifications, living and working conditions, housing, social welfare and so on. Strikes and claims made by trade unions met with increasingly violent and often bloody repression, as in the recent transport strike when dozens of militant trade unionists had been killed.

103. In the Arab territories occupied by Israel, the repressive legislation and practices of the military authorities affected both civil and political rights and economic, social and cultural rights. Trade unionists were prosecuted and sometimes imprisoned for years without grounds or deported. Educational establishments and those of UNWRA had been prevented from operating for long periods.

104. None of the human rights recognized in treaties could be isolated from the rest. The fact that they had been divided and some given priority over others had occurred because of considerations of ideological conflict rather than historical fact. His organization therefore endorsed the unifying approach of Mr. Türk's report and agreed that the perception of the importance and place of the various aspects of human rights continued to evolve.

105. The common conceptual basis that existed in the different instruments, namely the dignity inherent in every person, had been emphasized by Mr. Türk. That ethical and philosophical concept was a product of history, but in bestowing on the individual inviolable and sacred rights, liberal doctrine had cut him off from his roots and his links with society, thus subjecting him to the imprisoning influence of social forces beyond his control.

106. Social, economic and cultural rights replaced the individual in the real world, together with all members of society and all legal, political, economic and social institutions both national and international.

107. The upheavals in the countries of the third world and, more recently, in the socialist countries of Eastern Europe gave rise to questions about disparities and inequalities in contemporary international order.

108. The concept of the new international economic order had been virtually forgotten. Under the pressure of external debts and structural adjustment policies, the rights to development and economic sovereignty had been eclipsed and the present Uruguay Round negotiations confirmed the impression that the capitalist industrialized countries had regained control and that international economic and social inequality was becoming more acute.

109. Transnational corporations continued their activities without any control, for national law could not deal with them and the relevant international law was extremely vague and restricted, limited to an ILO declaration of principles of social policy and a United Nations draft code of conduct which had led to nothing. There was no real monitoring machinery.

110. Could one really talk about the effective implementation of social, economic and cultural rights without giving more attention to effects of the activities of transnational corporations on those rights? Such corporations concluded contracts that resembled treaties, and the turnover of the largest ones was much greater than the national budgets of many States. They enjoyed immunities and privileges, particularly in free zones where there was no right to work or trade-union rights. They exploited the resources of countries without any commitment to contribute to development; indeed, their financial transfers were such that poor countries became net exporters of capital to rich ones.

111. Mr. ARNOTT (World Conference on Religion and Peace) said that the transfer of values from North to South was a major factor in the breakdown of cultures, inducing cultural dependency and reducing the possibility for the target people to make a real choice of their path of development. Values were transferred by many means, including education, tourism, religious proselytizing and especially by the operations of the transnational corporations which controlled or produced the images for most media outlets in developing countries. The values of the dominant culture were projected with such energy as to be virtually irresistible and were an equivalent to the exertion of force. Such a transfer of values violated various human rights, including the right of a people to develop its own culture, the right to development and more generally the right to self-determination.

112. Most discussions on colonialism, neo-colonialism and decolonization, and the implementation of economic, social and cultural rights as expressed in the report before the Sub-Commission, had tended to focus on economic and political factors. The transfer of values, however, operated in the field of culture, which was social and mental. Messages and images originating in the industrial societies of the North, which reflected the thinking, ideas and values of those societies were used as the channel for transmitting value systems to a given region which were foreign to the peoples of that region. The economic and cultural authority of the countries of origin was so great and the technologies of transmission so powerful that in the end they wiped out the values of those peoples, thus becoming, even if unintentionally, instruments of cultural alienation and dependency. Cultural dependency went together with economic dependence, since it predisposed people to the pattern of production and consumption of wealth introduced into developing countries. Cultural dependency deprived people of the right to pursue cultural self-determination, a right enshrined in numerous international instruments including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the study by Hector Gros Espiell on the right to self-determination and the conclusions of the Global Consultation on the Right to Development.

113. Given the depth and extent, complexity and devastating consequences of the transfer of values from North to South, his organization requested the Sub-Commission to produce a multi-faceted study of the issue, which could suitably be incorporated into Mr. Türk's second progress report on the realization of economic, social and cultural rights to be presented to the Sub-Commission at its forty-third session.

114. Mrs. ECHEVERRIA (Habitat International Coalition) said that it was encouraging that many of the key elements of the right to adequate housing had been recognized in the report of the Special Rapporteur (E/CN.4/Sub.2/1990/19)

and by various members of the Sub-Commission. Her organization considered that the Sub-Commission should expose activities and laws that infringed that right, encourage States to adopt policies and laws to realize that right, and further develop legal standards and guidelines.

115. It was imperative that forcible eviction should be viewed as a violation of the right to housing and recognized as a practice related to, though distinct from, other involuntary movements of people. That view needed to be reaffirmed by human rights bodies until the practice was eliminated from so-called development policies.

116. Some of the more negative aspects of the right to property, which constituted a basis for land speculation and eviction, continued to prevail over the right to a place to live in peace and dignity. States should recognize that everyone without distinction had an equal right to decent housing. It would be very useful if the Sub-Commission could draft model legislation aimed at preventing and prohibiting forcible eviction and if it could adopt planning guidelines for international development projects, which often involved eviction.

117. In many countries the poor, the homeless or the inadequately housed were often viewed as criminals. Clearly there was something wrong with legal systems that labelled the majority of the urban population as "illegal" when its only choice of obtaining the basic human rights conveniently denied or ignored by society was to take action contrary to the law. International legal analyses should be carried out to rectify the contradictions between human needs and the legal status quo.

118. People themselves have made the major contribution to fulfilling housing needs, rather than the State or the private sector. Although States had begun to recognize the limits of the public and private sector and to guarantee the right to housing, many of them continued to carry out policies of eviction at the same time.

119. The State and the market were not the only factors in society: there was another extremely important agent, frequently ignored, consisting of people and social organizations. Policies and laws should be promoted to ensure their actual participation in decision-making on housing issues, to protect their housing organizations and to stop the persecution and killing of civic leaders who defended those rights.

120. Governments should promote housing rights by giving legal security of tenure, which would encourage improvements to housing and provide protection against eviction, discrimination and other encroachments in the domestic sphere.

121. Many civil and political rights were meaningless to people unable to achieve their rights to a decent home. What did the right to freedom of movement mean to communities forcibly transported after their homes had been destroyed by bulldozers? What did the right to privacy mean when a family was forced by poverty to sleep on the pavement? Did homeless people have the right to choose their place of residence? What did the right to political participation mean in countries that denied the vote to anyone without an official address? How could people enjoy the right to development if they had nowhere to live? Habitat International Coalition urged the Sub-Commission to recognize those realities and take action accordingly.

122. Mrs. GUZMAN (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that her Federation wished to point out the close relationship between economic, social and cultural rights and civil and political ones.

123. Unequal economic development in different countries, made more acute by the weight of the external debt, was having extremely serious consequences for peoples which until recently had had a relatively high standard of living. In Venezuela, for instance, conditions had declined considerably since the previous year.

124. In February 1989 the Government had decided to increase transport costs, which, together with an artificial food shortage, had provoked a spontaneous reaction from the people, particularly in Caracas, where attacks were made on markets and other sales points for items of first necessity. Since the police was unable to control the situation, the Government had ordered the armed forces to intervene. There had been many casualties and a Committee of Relatives of Victims of the Events of February and March 1989 had been set up, whose investigations had shown that over 390 persons had died from indiscriminate shooting or arbitrary execution. There had been three disappeared persons and dozens of wounded. In addition property had been damaged by indiscriminate shooting and raids.

125. More than a year later the relatives were still trying to clarify matters. Almost all the cases were being considered by the military courts. There was a conflict of jurisdiction and the Supreme Court had to decide which court would deal with over 200 cases in the hope of establishing responsibility and trying and punishing the culprits. The families who were the victims of those events had been affected economically, in addition to the suffering caused by the loss of their loved ones. The events she had described constituted an example of the adverse consequences of economic measures imposed by international economic interests.

126. Ms. SALAZAR MARROQUIN (International Federation of Human Rights) thanked Mr. Türk for his contribution to the study of economic, social and cultural rights. In many countries, the problem of the land was of very great importance, as Mr. Türk had recognized in paragraph 121 of his report (E/CN.4/Sub.2/1990/19).

127. For indigenous peoples, the land constituted the basis of all life and culture. When their right to land was not respected, their cultural rights as well as their economic and social rights were infringed.

128. Guatemala was a case in point. Seventy per cent of the population was indigenous and in the course of 500 years had been deprived of its land. A study on land and labour in Guatemala had revealed that in 1982, out of a population of 7 million, 419,620 peasants were landless. Seventy-eight per cent of the land-owners possessed approximately 10.5 per cent of cultivated land. On the other hand, 65 per cent of the land was in the hands of 2.56 per cent of the landowners. The situation had become even more acute in the last decade.

129. In a pastoral letter from the Episcopal Conference of the Catholic Church of Guatemala, the Bishops of Guatemala, had stated that the lack of

land was at the heart of the social problem in Guatemala. The majority of cultivable land was in the hands of a tiny minority while the majority of peasants did not even own a tiny piece of land on which to grow their crops.

130. Consequently, peasants had to work as seasonal labourers on large agro-exporting estates. The minimum wage for an agricultural worker was 4.5 quetzals per day, sometimes less, or less than \$US 1. The Government Institute for Economic and Social Research had estimated that in 1989 a family of five needed a minimum of 18 quetzals a day (\$6.74) to meet their basic needs.

131. In January 1990, some 60,000 agricultural workers on the south coast had gone on strike for a minimum wage of 10 quetzals and for improvements in working conditions. The Government reaction had been to send military units to the major farms. Thousands of peasants were checked by the security and police forces and lists of strikers were drawn up. Other workers were dismissed or left the region for fear of reprisals.

132. The problem of land had greater importance in a country like Guatemala where the majority of the people were peasants whose survival depended wholly on the land. In conclusion, however, she wished to draw attention to the consequences of the unfair distribution of wealth, particularly the high illiteracy, malnutrition, morbidity and mortality rates that affected some 6 million persons, and particularly the indigenous people in Guatemala.

133. Mr. do AMARAL SOUZA NETO (Observer for Brazil) said that his delegation was in broad agreement with Mr. Türk's preliminary conclusions at the end of Chapter I of his report, namely, that despite their limitations social and economic indicators could be useful in the realization of economic, social and cultural rights, in particular as a yardstick against which progress in their implementation could be verified. Properly elaborated and applied, economic and social indicators did have the potential to develop into a reliable mechanism for verification of compliance with international covenants.

134. Two aspects of the use of indicators were particularly relevant in that regard. First, it should be borne in mind that it would be impossible to apply universal indicators from monitoring compliance with economic and social rights in countries at different stages of development. The possibility of elaborating minimum or core indicators of the enjoyment of those rights applicable to all countries should not be excluded, and Mr. Türk had done a great deal of work towards that end in his report. He should be encouraged to pursue that effort as well as to study further ways and means of reflecting differences in development levels across countries in any indicators used. Second, social and economic indicators measuring the domestic situation of any country must be coupled or looked at in conjunction with indicators that could give a proper measure of the interaction between the world economy and that of the country concerned. He would illustrate his point with the case of Latin America.

135. The 1980s had been a lost decade for most of the Latin American economies. The GNP of the Latin American and Caribbean region as a whole, had increased by almost 40 per cent in the 1970s, had declined by about 7 per cent between 1980 and 1988. Only five of the countries in the region had had a per capita GDP in 1988 greater than in 1980. That situation was

largely the combined result of the massive transfer of resources abroad for debt-servicing purposes, a decrease in investment inflows and rampant protectionism by developed countries. As a result of the stagnation of the region, economic and social indicators in Latin American countries were likely to have shown little, if any, improvement at all during the 1980s. In some case they might well have worsened.

136. He therefore believed that domestic indicators should be read in conjunction with another set of indicators designed to measure the interplay between the external economic environment and the national economy. The United Nations Conference on Trade and Development had a wealth of knowledge in that area and could therefore assist the Special Rapporteur in his endeavours.

137. The principle of co-responsibility recognized by the international community for the protection of human rights had not been extended to the creation of international economic conditions making it possible for those rights to be fully realized. The very idea of international co-operation for development, which had been on the international agenda in the 1960s and 1970s, had been replaced in the 1980s by a trend in the industrialized nations towards a sort of disassociation between decisions taken in the economic and financial sphere and the human rights debate.

138. He acknowledged the primary responsibility of each country in the task of trying to resolve domestic problems. But such a task would be made easier or more difficult by the conditions prevailing in the international environment. Reviving the issue of international co-operation for development was therefore certain to contribute very significantly to the realization of economic, social and cultural rights and, by extension, of all human rights.

The summary record of the second part of the meeting appears as document E/CN.4/Sub.2/1990/SR.30/Add.1.



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/Sub.2/1990/SR.30*
8 November 1990

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)** OF THE 30th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 28 August 1990, at 3 p.m.

Chairman: Mr. TÜRK

later: Mr. TREAT
Mrs. MBONU

CONTENTS

The new international economic order and the promotion of human rights

(a) The role and equal participation of women in development

The realization of economic, social and cultural rights

Review of further developments in fields with which the Sub-Commission has
been concerned

Organization of work (continued)

* Reissued for technical reasons.

** The summary record of the second part (closed) of the meeting
appears as document E/CN.4/Sub.2/1990/SR.30/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They
should be set forth in a memorandum and also incorporated in a copy of the
record. They should be sent within one week of the date of this document to
the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the
Sub-Commission at this session will be consolidated in a single corrigendum,
to be issued shortly after the end of the session.

The meeting was called to order at 3.15 p.m.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS

- (a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 7)
(E/CN.4/Sub.2/1990/NGO/11)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8)
(E/CN.4/Sub.2/1990/19; E/CN.4/Sub.2/1990/NGO/8, 16; E/CN.4/1990/8;
E/CN.4/Sub.2/1989/19)

1. Mr. MARTENSON (Under-Secretary-General for Human Rights), introducing agenda item 7, said that it had been on the Sub-Commission's agenda since 1979. The Sub-Commission, in its resolution 1985/34, had decided to consider the item on a biennial basis but, in its resolution 1989/1, had decided to consider the item on an annual basis.

2. With regard to sub-item (a), the Sub-Commission had initially proposed to include a sub-item entitled "Prevention of discrimination and protection of women" in the agenda for its thirty-seventh session, in 1984. At its forty-first session on 4 December 1986, the General Assembly had adopted resolution 41/110 entitled "The role of women in society", in which it requested the Secretary-General to pay due attention to all the interrelated aspects of the role of women in society, in particular when preparing surveys on the role of women in development. Subsequently, at its thirty-ninth session, the Sub-Commission had adopted resolution 1987/26 entitled "The role and equal participation of women in development" in which it decided to consider at its forty-first and future sessions, in connection with the agenda item entitled "The new international economic order and the promotion of human rights", a sub-item entitled "The role and equal participation of women in development". The Sub-Commission had also requested the Secretary-General to make available to it at each of its future sessions the reports of the Committee on the Elimination of Discrimination against Women and of the Commission on the Status of Women.

3. At its forty-fourth session, on 19 December 1989, the General Assembly had adopted resolution 44/171 entitled "Integration of women in development", in which it referred to the World Survey on the Role of Women in Development, published in 1989 by the United Nations, and requested that an updated survey should be submitted to it in 1994.

4. The General Assembly had also adopted, on 8 December 1989, resolution 44/74 on the United Nations Development Fund for Women, and resolution 44/78, of the same date, on the improvement of the situation of women in rural areas.

5. The Sub-Commission had before it at the present session, the most recent reports of the Committee on the Elimination of Discrimination against Women, and of the Commission on the Status of Women.

6. Introducing agenda item 8, he said that the Commission on Human Rights, at its forty-third session, in resolution 1987/19, had requested the Sub-Commission to examine the conclusions and recommendations of the report of the Commission entitled The Realization of Economic, Social and Cultural Rights: Problems, Policies, Progress and to submit to the Commission, at its

forty-fourth session, a proposed timetable for updating those conclusions and recommendations, taking into account the activities of the specialized agencies, other United Nations bodies and organs, and intergovernmental organizations, Governments and non-governmental organizations, and keeping in mind the importance of maintaining a specific human rights focus in examining the issues raised in that report. The Commission had also requested the Sub-Commission to consider, in accordance with its resolution 1983/35 of 6 September 1983, the preparation of a study on the impact on human rights of the policies and practices of the major international financial institutions, most notably the International Monetary Fund and the World Bank.

7. At its thirty-ninth session, in its resolution 1987/29 A, the Sub-Commission had recommended to the Commission on Human Rights and the Economic and Social Council, in response to Commission resolution 1987/19, that the Sub-Commission be authorized to appoint, from its members to be elected in 1988, a special rapporteur to study problems, policies and progressive measures relating to the more effective realization of economic, social and cultural rights. The special rapporteur would be requested to submit a substantial progress report to the Sub-Commission at its forty-first session. The Commission, in its resolution 1988/22, had invited the Sub-Commission to appoint a special rapporteur for that purpose.

8. At its fortieth session, the Sub-Commission, in resolution 1988/33, had decided to entrust Mr. Danilo Türk with a study of problems, policies and progressive measures relating to the more effective realization of economic, social and cultural rights, and had recommended that the Special Rapporteur take account of the guidelines and issues contained in Sub-Commission resolution 1987/29 A.

9. At its forty-fifth session, in resolution 1989/13, the Commission had endorsed the undertaking of that study and requested that priority be given to identifying practical strategies to promote for everyone the economic, social and cultural rights contained in the Covenant, paying particular attention to the most vulnerable and disadvantaged. The Economic and Social Council, in its decision 1989/39, had also endorsed the appointment of the Special Rapporteur, Mr. Danilo Türk.

10. At its forty-first session, by its resolution 1989/20, the Sub-Commission had welcomed the preliminary report prepared by the Special Rapporteur (E/CN.4/Sub.2/1989/19) and had requested him to prepare a progress report taking into account comments made in the discussion on the preliminary report. By the same resolution it had also decided to consider that progress report at its forty-second session under a separate item entitled "The realization of economic, social and cultural rights".

11. By its resolution 1990/17, the Commission on Human Rights had welcomed the dialogue between the Committee on Economic, Social and Cultural Rights and the Special Rapporteur of the Sub-Commission on the realization of economic, social and cultural rights, Mr. Danilo Türk, and had expressed the hope that the dialogue would continue; invited the Special Rapporteur, when preparing his progress report, to take into account comments made in the Commission on Human Rights; and requested that in the report priority be given to identifying practical strategies to promote for everyone the economic, social and cultural rights contained in the Covenant, paying particular attention to the most vulnerable and disadvantaged.

12. On the topic of foreign debt, economic adjustment policies and their effects on the enjoyment of human rights, he recalled that the Sub-Commission, by its resolution 1989/21, had affirmed that any foreign debt strategy must be designed not to hamper the steady improvement of conditions guaranteeing the enjoyment of human rights and must be intended, *inter alia*, to ensure that debtor developing countries achieved an adequate growth level to meet their social and economic needs and their development requirements; stressed the need to revive the economic growth and development of those countries, reduce the political and social costs of structural adjustment programmes and to guarantee the necessary conditions for the full enjoyment of all human rights; and invited the Special Rapporteur, Mr. Türk, to take those factors into account in his study.

13. The Commission on Human Rights, in its resolution 1990/24, had requested the Special Rapporteur to take into account, in his progress report, the comments and views of Governments which desired to provide him with their comments and the information at their disposal about their experience concerning the impact of economic adjustment policies arising from foreign debt on the enjoyment of economic, social and cultural rights.

14. On the question of human rights and extreme poverty, he said that, at its forty-sixth session, the Commission on Human Rights had adopted resolution 1990/15, in which it reaffirmed that extreme poverty and exclusion from society constituted a violation of human dignity and that urgent national and international action was therefore required to eliminate them; requested the Sub-Commission when giving attention, in accordance with its resolution 1989/20, to problems, policies and progressive measures relating to more effective realization of economic, social and cultural rights, to examine the question of extreme poverty and exclusion from society in greater depth and to carry out a specific study of that question.

15. Other resolutions relevant for the item under discussion were Commission on Human Rights resolution 1990/14 on "Popular participation in its various forms as an important factor in development and in the full realization of all human rights", and resolution 1990/18 on "The right to development".

16. At the present session, the Sub-Commission would have before it the progress report by the Special Rapporteur (E/CN.4/Sub.2/1990/19).

17. The CHAIRMAN reminded members that at its 26th meeting the Sub-Commission had taken a decision on certain human rights-related questions which were now particularly relevant and in the focus of public attention. On the previous morning he had stated that the second part would be announced when agenda item 8 was reached. He now read out the second part: "On the grounds of human rights and humanitarian law, we strongly appeal to all those participating in sanctions against Iraq not to prevent the delivery of necessary food and medicine".

18. As Chairman of the Sub-Commission he wished to add the following: "This part of the decision was phrased in the spirit of the relevant elements of Security Council resolutions adopted earlier regarding this question and this may be an element to be kept in mind when this part of the decision is announced in the public meeting of the Sub-Commission".

19. He invited the Sub-Commission to continue its consideration of agenda items 7 and 8.

20. Mrs. KSENTINI, speaking on a point of order, said that when those appeals were adopted there had been a gentlemen's agreement that there would be no debate on the issue. She had refrained from speaking at the time and, in the same spirit, she requested that the debate on that aspect of the question should not be reopened.

21. The CHAIRMAN said that he had read out the relevant part of the Sub-Commission's decision and had added an important element which illustrated the spirit in which the decision had been formulated.

22. Mr. EIDE said that he was satisfied with the Chairman's clarification of the situation in pointing out that the appeal had been made in accordance with Security Council resolution 661 (1990).

23. Mrs. PALLEY endorsed Mr. Eide's comment.

24. Mr. TREAT, speaking on a point of order, said that he wished to be absolutely clear that the Sub-Commission had taken the decision in the spirit of Security Council resolution 661 (1990) and that it was part of a single issue under two separate agenda items, namely, items 7 and 8.

25. The CHAIRMAN said that the Sub-Commission had decided that the decision would be made public under two different agenda items.

26. Mr. Treat took the Chair.

27. Mr. ZHAN DAODE, referring first to agenda item 7, said that many experts had stressed the importance of establishing a new international economic order with a view to the promotion of human rights. He fully agreed with them, but wished to stress certain points.

28. The establishment of a new international economic order was essential for establishing the right to development. The 1980s had shown that the deterioration in external economic conditions was a major obstacle to the economic development of the majority of developing countries. It was extremely difficult to promote economic, social and cultural rights in the framework of the current irrational international economic order, which fostered the developed countries' economic growth at the expense of the economic interests of the vast majority of developing countries. Unequal international trade was a typical example.

29. In discussing human rights, it was impossible to ignore the fact that three quarters of the world's population lived in the developing countries, in conditions of poverty and underdevelopment, and that the high ideals of the Universal Declaration concerning the right to enjoy economic and social development could be only distant objectives. He had observed that in recent years, on the international scene, some people talked about civil and political rights but were silent about economic, social and cultural rights. Both types of human rights were equally important and should have the universal respect that was essential for promoting them. It was important also not to overlook the right to development for the vast majority of the world's population.

30. There were now 120 developing countries, including 42 of the least-developed with a population of 340 million - nearly the entire population of the Western countries. According to World Bank statistics, the Western countries had a gross national product (GNP) of \$11,080, compared with a figure of \$884 for the developing countries and \$221 for the least-developed. The developed countries' GNP was thus 12 times that of the developing countries and the North-South gap continued to widen.

31. According to the World Economic Survey, 1990 the economic growth of the developing countries was likely to be the same for 1990 as for 1989. In addition, the developing countries' debt burden was seriously disrupting their economies, representing a large percentage of their exports and their GNP, especially in the Latin American countries. It was clear that, unless the international economy were reformed, it would be impossible to solve the problems of the developing countries. The establishment of a new international economic order was therefore particularly significant and urgent, especially in relation to human rights, because the present situation prevented three quarters of the world population from enjoying their economic, social and cultural rights.

32. The only solution was concerted effort by the international community. The major developed countries had a special responsibility and should at least adopt a positive attitude towards measures of alleviation. Those measures should include: significant reduction of the developing countries' total debt and easing of their debt burden; speedy reversal of the flow of funds from the developing to the developed countries; an end to protectionism, an increase in developing country products, and elimination of tariff and non-tariff barriers to the developing countries' exports; stabilization of primary commodity prices; active transfer to the developing countries of technology needed to develop their human and other resources; special assistance to the least-developed, low-income and geographically disadvantaged countries and those suffering natural disasters; and elimination of the developing countries' poverty as a matter of priority.

33. Another factor that should be taken into account was that political development and economic development were related. In today's world, economic development in different countries and regions was not uniform, because cultural traditions differed. To adopt norms or models in one State for application to other States was unrealistic and inappropriate.

34. Mr. TURK, Special Rapporteur, introduced his progress report on the realization of economic, social and cultural rights, contained in document E/CN.4/Sub.2/1990/19, the subject of which seemed to be closer to the Sub-Commission's original mandate which related to the concept and realization of human rights. The question of the realization of economic, social and cultural rights had, for a long time, failed to receive the attention it deserved, a matter which had been discussed in various contexts, usually with the conclusion that something must be done. For example, studies should be made that would give more content to the debate on economic, social and cultural rights. Experience had shown that if the Sub-Commission wished to pay more attention to a problem, it should make sure that it produced its own material, that studies should be made by its own members. It was not enough to have analytical material from elsewhere in the United Nations system.

A considerable amount of work had already been carried out by other agencies in the United Nations system, but not much had been done by the Sub-Commission itself, apart from an excellent study by Mr. Eide on the right to food (E/CN.4/Sub.2/1987/23), some years earlier.

35. His own study was, in a way, experimental. As he had said in 1989 when introducing his preliminary report (E/CN.4/Sub.2/1989/19), he could not attempt to make a study or report which would cover all the relevant questions, and selection would be necessary. In his progress report now before the Sub-Commission he had selected problems which seemed to him to be relevant and important for discussion at the present stage.

36. The progress report placed great emphasis on social and economic indicators and their role in the realization of economic, social and cultural rights (Chapter I). It considered the question of future standard-setting in the area of economic, social and cultural rights (Chapter II). The question of extreme poverty was dealt with in Chapter III. He now wished to draw attention to the following points.

37. Regarding indicators, it was important for human rights bodies willing to engage in serious debate on the realization of economic, social and cultural rights to be able to assess progress. To that end, it was necessary to devise appropriate methods that would enable the task to be completed successfully. The idea of economic and social indicators was not new; it had existed in the social sciences and had been used in the United Nations system. The need was not to create something new, but to see if existing methods based on indicators could be useful in the context of human rights discussions. The idea had been mentioned in a number of debates in the Sub-Commission and the report contained references to work that had been done in that field. Paragraph 29 contained a summary of ideas concerning indicators and paragraph 91 invited comments and suggestions from the Sub-Commission. Paragraph 84 discussed the possible use of the Lorenz Curve.

38. The International Covenant on Economic, Social and Cultural Rights provided that standard-setting might be used as an important and necessary element in the realization of the content of the Covenant. Consequently, standard-setting in the area of economic, social and cultural rights should not be seen solely as a matter of standards as such, but also as an exercise that attempted to provide more specific content and thus be helpful in the process of realizing those rights.

39. In his preliminary report (E/CN.4/Sub.2/1989/19), he had made a few comments on certain areas in which future standard-setting could go ahead. He had not repeated all those references in his progress report, but had tried to place more emphasis on the right to adequate housing, a subject often mentioned in Sub-Commission debates; he had dealt with the question of land rights; and he had tried to show which elements of existing norms in the human rights field would be useful in standard-setting.

40. He looked to the Sub-Commission to say whether he was working on the right lines. In the event of support, he would be more than willing to proceed accordingly. If there were discouragement, however, he would take the comments of members duly into account.

41. The chapter on extreme poverty had been included because attention had to be focused on the people who suffered most. In preparing that part of the report, he had been greatly assisted by the non-governmental organization that had been most active in that field so far, the International Movement ATD Fourth World. When approaching the question of the realization of economic, social and cultural rights from a methodological standpoint, it seemed as if the rights concerned were measurable and that the whole problem could be reduced to technical aspects. That might be a dangerous illusion. The question of poverty, and consequently the question of the realization of economic, social and cultural rights, was a deeply moral matter and should be viewed as such by bodies dealing with human rights. Thus, there was a need to investigate it in the way proposed in Chapter III. When preparing that chapter, he had been aware that the Commission on Human Rights had already taken action to deal with the question of extreme poverty in its totality. It was already recognized that extreme poverty did not affect the realization only of economic, social and cultural rights, but also of civil and political rights. It therefore had to be seen as a phenomenon that required attention as such. Consequently, he suggested that the Sub-Commission should consider the possibility of entrusting another member with the task of analysing the question of extreme poverty in all its dimensions.

42. With regard to his preliminary recommendations contained in paragraphs 218-220, he considered that the work on indicators should be continued. A variety of methods could be explored in that context. He had suggested that a special seminar be organized in 1992-1993 under the United Nations programme of human rights activities for discussion of appropriate indicators to measure achievements in the progressive realization of economic, social and cultural rights. He would, however, continue to explore the question of indicators himself.

43. He had also started work on certain other questions relating to the realization of economic, social and cultural rights, but he had not yet reached the stage in which he could set forth his findings in a progress report. Those questions included structural adjustment and the role of international financial institutions. He suggested that a second progress report be prepared to deal primarily with those aspects. He had already collected some literature on them but he had not been able to establish direct contact with the relevant international agencies. The Secretariat had given him valuable assistance in that respect, but more would be required.

44. Mr. EIDE said that the realization of economic and social rights had received too little attention in the past, partly owing to the problem of understanding what was involved. There were two aspects. One was to find ways to assess the degree to which the rights were enjoyed by the different sections of the population, and the other was to determine what the obligations of Governments were in ensuring, for all their citizens, the full range of economic and social rights. There was, admittedly, a related third problem, which was to clarify the various economic and social rights and, if necessary, to proceed to further standard-setting.

45. Mr. Türk had extensively examined the possible indicators that might be used to determine the extent of realization of economic and social rights. He had also explored the use of indicators by human rights monitoring bodies, relying on the obligations of States parties under article 2 of the

International Covenant on Economic, Social and Cultural Rights. Mr Türk had also explored ways in which indicators could be of use in measuring State performance. It was a very fruitful report, although more work needed to be done in determining which indicators would be the best to use.

46. In paragraph 88 Mr. Türk made the very important point that indicators should give not only overall national measurements but also regional measurements at various levels. It might also be useful to have indicators for different ethnic or racial groups. However, since that could be controversial, much could be gained from comparisons at the local level. In short, Mr. Türk had already made substantial progress in harnessing the indicator "movement" to the concern for monitoring human rights performance in the economic and social fields, but more needed to be done.

47. In future standard-setting in regard to economic, social and cultural rights, what should be involved was probably not the adoption of new rights but the clarification of the standards for the implementation of existing rights. That was particularly clear in regard to the right to adequate housing. It could be useful to initiate a study on the right to housing comparable to that made by himself on the right to food (E/CN.4/Sub.2/1987/23). Land rights and agrarian reform was a much more complicated area. The question posed by the World Commission on Environment and Development, quoted in paragraph 137 (b) of the report, was perplexing. The insight gained through the continued study of the matter might help to answer it.

48. Mr. Türk's examination, in Chapter III, of the question of extreme poverty, the elimination of which should be the first priority in efforts to promote the realization of human rights, was particularly helpful. He endorsed Mr. Türk's preliminary recommendations.

49. He wished to draw attention to an urgent matter relating to economic and social rights. In Kuwait, a number of embassies had been surrounded by Iraqi occupation forces and apparently there was an intention to carry out a policy of depriving the persons inside them of food supplies and even of water. It was possible to do without food for some days, but deprivation of water was extremely serious. When the modest supplies within the Embassies were at an end, the personnel would be at serious risk. The Sub-Commission must therefore urgently call on the occupying forces not to use starvation and deprivation of water as a weapon in the conflict.

50. It was obvious that the embargo was not intended to violate the basic human rights of the Iraqi people, including the Kurds. In particular, the fundamental right to be free from hunger and the right to health must remain protected. On the other hand, the Security Council had adopted mandatory sanctions which were intended to oblige the aggressor to withdraw. To the extent compatible with basic human rights, those sanctions must be applied to the full. Consequently, there was a need to solve the problem of securing access to, and distribution of, necessary food. The international community must express its willingness to ensure that, but only in ways which did not weaken the embargo. The basis for that was to be found in paragraph 4 of Security Council resolution 661, (1990).

51. He had some thoughts on how it could be done. The provision of such supplies should await a request by the medical and food authorities of Iraq,

stating that domestic and stocked supplies were insufficient to prevent hunger or disease. Such a request should be accompanied by a plan for the equitable distribution of the food produced inside Iraq and Kuwait. Prior to the release of international supplies, a rationing system must be established, as well as a system for the international monitoring of its equitable application. It would also be necessary to co-ordinate the supplementary supplies from outside required to ensure that basic necessities were met, and to ensure that they were equitably distributed inside Iraq and Kuwait, probably on the same basis of rationing. International humanitarian organizations enjoying general respect should be called upon to ensure equitable distribution.

52. Mrs. MBONU said that the numerous cases of human rights violations in the developing countries underlined the link between the enjoyment of human rights, especially economic, social and cultural rights, and a country's level of economic development. The fragile economic condition of most developing countries was the product of the current inequitable nature of economic relations between States, characterized by the low prices of primary or semi-processed products exported by the developing countries in comparison with the inflated prices of industrial goods from the developed countries, the protectionist policies of the developed countries and the control which they exercised, through their voting rights, over the major international financial institutions. The outcome of all that was that the developing countries, with three quarters of the world's population, accounted for only one fifth of its income and thus lived in absolute poverty without enjoying even the most basic human rights such as food, health and education. The developing countries were also struggling under a burden of external debt with which they were obviously no longer able to cope.

53. In his report, Mr. Türk had identified two priorities that should be tackled at the national level for the realization of economic, social and cultural rights - extreme poverty and structural adjustment. He had observed that the latter could have positive effects on the alleviation of poverty but that those effects would not be sustained unless there was growth; and growth, he had observed, could come only through a change in the current world power structure which could bring about the kind of economic order necessary for greater enjoyment of economic, social and cultural rights in the developing countries.

54. She agreed that economic, social and cultural rights, especially economic rights, on the one hand, and civil and political rights, on the other, should be given equal importance and therefore endorsed the recommendations made by the Special Rapporteur in paragraphs 218, 219 and 220 (a) of his report. As for the recommendation contained in paragraph 220 (b), in which the Sub-Commission was invited to suggest areas in which further standard-setting might be considered necessary, she suggested that, in addition to the recommendation contained in paragraph 220 (c), a study should be made on the effect of the debt burden on the enjoyment of economic, social and cultural rights. It should take into account the indivisible nature of economic, social and cultural rights and of civil and political rights. Either one member of the Sub-Commission could undertake a study on extreme poverty and the effects of the debt burden on the enjoyment of human rights, or two members could make two separate studies. In any case, more attention should be given to the enjoyment of economic, social and cultural rights.

55. Mrs. BAUTISTA congratulated Mr. Türk on his development of the subject of indicators for monitoring the realization of economic, social and cultural rights. The greatest section of the world's population deprived of those rights were the poor. Poverty was a state of continuous violation of human rights, both civil and political rights and economic, social and cultural rights. The basic right to life included the right to food, shelter and health. To attain that, there must be development and the right to earn a living.

56. In the developing countries, women and children suffered most. They were overburdened with the tasks which underdevelopment had imposed on them for years. They lacked food and clothing.

57. Pollution and the destruction of the environment were due to new technologies and to the over-exploitation of resources. Farmers and fishermen were being deprived of their customary sources of livelihood. The effects of massive destruction of the environment must be included in the consideration of economic, social and cultural rights.

58. In the developing countries, Governments were unable to deliver basic services to their peoples. As a result, there was discontent, insurgency, demonstrations and violence, and human rights were violated in their suppression. Social, economic and cultural rights must therefore be studied together with civil and political rights.

59. Mr. KHALIL said that there was no need to stress the hardships which the developing countries were continuing to suffer in their endeavours to realize their legitimate aspirations to economic, social and cultural development. As a former chairman of the Group of 77 in New York, he had experienced the series of disappointments encountered in the developing countries' genuine efforts to launch the North-South dialogue. Real economic difficulties and social destabilization were being caused by IMF's prescription for dealing with economic ills, which included reducing food subsidies, raising prices to limit an already low level of consumption, increasing exports, and restricting imports. The topic to which Mr. Türk had devoted so much effort was therefore of the utmost importance to developing countries in their painful endeavours to secure the economic, social and cultural rights of their peoples. The progress report now before the Sub-Commission rightly stressed the importance of using indicators and pointed out the major imperfections in the monitoring of compliance with the obligations undertaken by States. A great deal of thought had also been given to the question of standard-setting. He fully supported the Special Rapporteur's preliminary recommendations, particularly the need for a second progress report to cover certain questions that required further study, including the question of the realization of economic, social and cultural rights in the context of structural adjustment and the role of international financial institutions in the realization of those rights. He fully supported the Special Rapporteur's endeavours to establish contacts with the international financial institutions and looked forward to his presentation of the results of his high-level contacts at the next session of the Sub-Commission. He also supported the Special Rapporteur's suggestion that the Secretary-General should be invited to render all necessary assistance with a view to establishing contacts with the relevant departments at United Nations Headquarters, as well as his recommendation concerning the organization of a seminar on indicators.

60. Mr. FLINTERMAN said that in the two reports which Mr. Türk had presented so far, he had made it clear that the Sub-Commission could no longer avoid dealing with the complex and challenging problems relating to the realization of economic, social and cultural rights. The Special Rapporteur, and with him the Sub-Commission, might well be embarking on yet another impossible mission. However, that mission must be undertaken in the coming decade in order to preserve the Sub-Commission's credibility as a human rights body committed to the idea of the indivisibility and interdependence of all human rights.

61. He suggested that agenda items 7 and 8 should be clustered in a single agenda item. Moreover, it was clear that the topic of Mr. Türk's study was so broad in scope that it would be impossible for one rapporteur to cover all the relevant aspects. Mr. Türk had already recommended, in line with Commission on Human Rights resolution 1990/15, that the Sub-Commission appoint one of its members as a special rapporteur on the issue of extreme poverty. That recommendation had been followed up in draft decision E/CN.4/Sub.2/1990/L.31. In view of the growing number of studies undertaken by members of the Sub-Commission, it was important to draw up a medium- and long-term programme of studies in which studies on various aspects of the realization of economic, social and cultural rights would be given a prominent place.

62. He also supported the proposal contained in paragraph 219 of the report that there should be direct contacts with the international financial institutions, notably the World Bank and IMF.

63. Further standard-setting might be necessary as, for example, in the case of the right to adequate housing. Various in-depth studies made by different agencies in the United Nations system had clearly shown the imperative need for more detailed international rules. As regards land rights, he agreed with Mr. Türk that the issue was of great relevance for the preservation of human dignity and required more thorough study. Such a study should focus on the manifold national practices and legislation. It might also be wise to await the results of the ongoing discussion on the draft declaration on indigenous rights which focused partially on land rights.

64. He had been particularly impressed by the chapter on social and economic indicators which surveyed the indicators used by various United Nations agencies and attempted to describe core indicators which might play a role in the realization of economic and social rights. It was clear that more work should be done but the basis for further research was a solid one. In paragraph 68 of his report, Mr. Türk noted that many United Nations agencies which collected and used various indicators in their own work had yet to recognize the distinct and direct links of that activity with human rights concerns. It might be worth stimulating such agencies to establish within their own structures human rights offices which would have the task of relating the indicators and activities of the agencies to human rights concerns.

65. In conclusion, he warmly congratulated Mr. Türk on his progress report.

66. Mr. JOINET said that, as he had already submitted comments in writing, he would confine himself to drawing attention to the relationship which existed between landholding and extreme poverty.

67. Mr. BARSH (Four Directions Council) noted that, in his progress report, Mr. Türk had concentrated on the question of indicators. The Four Directions Council welcomed that approach. The suggested list of "core indicators" was a step in the right direction, but the Special Rapporteur might further refine that aspect of his work through practical activities such as direct contacts with United Nations bodies and specialized agencies that published statistical information, in particular the Centre for Social Development to make arrangements for co-operative research; co-ordination with the research undertaken by UNRISD on indicators of consumption; and convening a technical conference on problems of gathering and verifying statistical indicators, in co-operation with the regional economic commissions. The Four Directions Council would like to see emerge from that process a basic list of critical indicators which could be made readily available in regular United Nations statistical reports.

68. In the view of his organization, the most important set of indicators had thus far been left out of the study. Those were indicators of the extent and quality of popular participation in decision-making or, in other words, indicators of genuine democracy, particularly with respect to economic and social planning and development. The participation of organizations, groups and communities, through their own democratically established institutions and representatives, was a major factor in the success of development projects as had been recognized both by the General Assembly and the UNDP Governing Council. At a time when so many other United Nations bodies were emphasizing the importance of strengthening popular participation as a development strategy, there had been a strange silence concerning the role of participation as a fundamental human right. Participation was, in fact, the critical link between economic, social and cultural rights, on the one hand, and civil and political rights on the other. It was a civil and political right under Article 25 of the International Covenant on Civil and Political Rights and its effective exercise enhanced the realization of all other rights, including economic and social rights.

69. Since evidence of genuine participation was also an indication of the quality and effectiveness of measures for enhancing economic and social rights, participation should form an integral part of any basic list of indicators. The Global Consultation on the Right to Development had identified some elements of participation which could be used for that purpose, namely: freedom of association, expression and democratic action; representativity and accountability of leadership; access to relevant information; decentralization of planning and decision-making; and the effectiveness or influence of popular action on decisions.

70. The same comments applied to the proposed study of human rights and the environment. The problem of the environment was one of extremes of wealth and poverty. Extreme wealth was associated with excessive consumption of resources while extreme poverty necessitated the over-utilization of very limited resources for mere survival.

71. The Four Directions Council accordingly supported the view that participatory development was a precondition for the effective protection of the global environment and hoped that that principle would be given a central role in the studies to be prepared by Mrs. Ksentini.

72. Miss SPALDING (International Commission of Health Professionals) said that her organization was deeply committed to the promotion of human rights as a form of societal good health. Respect for the individual was tantamount to the creation of a new order. Any time any individual was excluded from the mainstream of life, all were impoverished.

73. A recent editorial in "Transnational Perspectives" had underlined that large segments of society had always been excluded from cultural knowledge; those included, women, the young and lower or marginal castes. She herself would add disabilities to that list. Such people were often perceived as incapable of cultural knowledge and life or too flawed to enter into it.

74. In 1974, the Sub-Commission had taken the initiative which had resulted in the adoption by the General Assembly of the Declaration on the Rights of Disabled Persons which had called for national and international action. On 26 July 1990 the President of the United States had signed into law the American Disabilities Act 1990. Every man, woman and child in the United States with a disability could now pass through once closed doors into a bright new era of equality, independence and freedom. Society was indeed being opened up, from public transportation to employment, from telecommunications to public accommodation. The interest displayed by other Government and international bodies was also very encouraging as it indicated an intent to consider applying similar actions to their own national or group legal systems. That was dynamic rights formulation in action.

75. Mr. MALOUZA (International Commission of Health Professionals) said that both the Charter of the United Nations and the International Covenant on Social, Economic and Cultural Rights had stressed the goal of achieving peace through development. Unfortunately the aspirations of those member States of the Organization of African Unity which had signed the Covenant had not been reflected in the policies pursued by individual Governments. The reasons for under-development were many but in general reflected a sort of structural violence resulting from economic stagnation, illiteracy, sickness, poverty, migratory flows and the brain drain. That structural violence was a factor in political instability which was preventing the full enjoyment of the social, economic and cultural needs of the population.

76. Remedies for the underdevelopment of Africa were clearly indicated in the 1980 Lagos Plan of Action which had recommended the African States to base their development policies on regional and sub-regional co-operation and on African socio-cultural values. In order to achieve their goal there must be a firm political will on the part of the African States to democratize African society.

77. Mr. TEITELBAUM (International League for the Rights and the Liberation of Peoples), speaking also on behalf of the American Association of Jurists, drew attention to document E/CN.4/Sub.2/1990/NGO/11 which contained a statement by Luis Inacio da Silva from Brazil, Cuauhtemoc Cárdenas Solorzano from Mexico, Adalberto Carvajal Salcedo from Colombia and Jesse Jackson from the United States who were all active participants in popular and democratic social and political movements in their own countries. The statement had urged the debtor countries to establish a common strategy against the cartel of creditors and to put an end to all conditionalities imposed by rich countries and their international financial institutions like the IMF and World Bank.

78. The report of the Special Rapporteur for the current year deviated somewhat from his mandate as originally established in the Sub-Commission's resolution 1987/29. Concern for methods of evaluation and indicators was legitimate but, as those matters pertained to technical statistical issues, they lay outside the competence of the Sub-Commission. Those matters came within the purview of other bodies and agencies and were relevant to human rights to the extent that human rights were the concern of those agencies. Statistics could moreover prove many things, depending on the methods employed. For example, the World Bank continued to use Gross Domestic Product as an indicator of development although the specialized agencies had abandoned that concept which provided no guidance whatever on development as a human right.

79. The Sub-Commission should therefore not involve itself in statistical techniques but should develop a statistical policy which reflected the concept of development as a human right.

80. The Sub-Commission should concentrate on examining situations, developing standards and proposing legislative guidelines for States. That would involve a study of the ways to apply to economic, social and cultural rights the mechanisms used by the United Nations for the defence and promotion of civil and political rights. In that connection his organization would suggest that the Sub-Commission should revoke its decision 1989/102 with a view to reviving the 1503 procedure. The Sub-Commission should also continue its useful exchange with the Committee on Economic, Social and Cultural Rights and should prepare a draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and also a declaration which would condemn as international crimes the policies and practices of States, institutions and persons standing in the way of the realization of economic, social and cultural rights. It should also urge States to examine the legitimacy of the contracts which gave rise to external indebtedness and it should also examine whether the policies of IMF and the World Bank might not be in conflict with the Charter of the United Nations and other international norms.

81. In conclusion, he drew attention to the fact that those issues had been developed in a very useful report by the Secretary-General to the Commission on Human Rights in document E/CN.4/Sub.2/1990/NGO/16.

82. Mr. DONALD (Disabled Peoples' International) said that disabled women faced many barriers to participation in development programmes, including inaccessible work places, lack of education, inappropriate or non-existent vocational or rehabilitation and the absence of transportation usable by disabled women. The worst barrier for women with disabilities however was severe discrimination and prejudice, even within governmental, intergovernmental and non-governmental organizations and those who provided the funds for development.

83. His organization urged the Sub-Commission to pay particular attention to the problem and, in particular, urged the Special Rapporteur on the issue of human rights and disability to recommend to all entities and treaty bodies of the United Nations that funding should be directed at ensuring the full integration of women with disabilities in all United Nations funded or instigated development programmes. In addition, the Sub-Commission should demonstrate sensitivity to the problems of development and disabled women in all aspects of its work on development and human rights.

84. Disabled Peoples' International welcomed the emphasis placed on the issue of extreme poverty in Commission on Human Rights resolutions 1990/15 and 1990/17 because, of all the poor in the world, the poorest and the most vulnerable as well as the most disadvantaged and most excluded from society were persons with disabilities. In addition, as disabled persons represented nearly 20 per cent of the world's population, any appreciable improvement in their economic situation would result in a significant reduction of extreme poverty in the world.

85. His organization also welcomed the fact that the topic of extreme poverty was included in the Special Rapporteur's progress report. In that connection his organization wished to make the following points in the belief that they would assist the Special Rapporteur in the preparation of his final report. The situation of extreme poverty of persons with disabilities would not improve without education of disabled children and youth. The United Nations system must do far more to ensure that funds for development and the alleviation of poverty were targeted at education, employment and services for persons with disabilities. Employment opportunities and vocational training and rehabilitation were essential to ensure the economic rights of persons with disabilities and to assist in developing self-sufficiency. That area was frequently forgotten by United Nations bodies or by Governments and development funding entities. For example, very few countries had ratified ILO Convention No. 159 regarding vocational rehabilitation.

86. Disabled Peoples' International invited the Special Rapporteur to consult it and other organizations of persons with disabilities in his further work on the topic. Organizations of persons who helped disabled people might also be usefully consulted. The Special Rapporteur should also be urged to co-ordinate his work with that of the Special Rapporteur on human rights and disability.

87. Mrs. BEYELER (International Movement ATD Fourth World) thanked Mr. Türk for taking up the question of extreme poverty in his report.

88. Thanks to the Commission and the Sub-Commission, which had decided to heed the appeal of Father Wresinski, the voice of families and populations living in extreme poverty would also begin to be heard. The study on human rights and extreme poverty which had been requested by Father Joseph Wresinski in 1987 was to be realized. The right of the poorest to contribute to the body of information which was being prepared would thus be guaranteed since one of the threats to respect for human rights in situations of extreme poverty was the fact that the victims had no control over the way in which the international community viewed them. The Sub-Commission could, however, make known the available information on extreme poverty, and work out the conditions which would help the poorest to provide the United Nations with information on themselves similar to that provided by other groups and reveal the threats to human rights resulting from extreme poverty as well as strengthen the efforts of the poorest themselves to achieve a life of dignity and to assume their responsibilities.

89. Mr. DAVIES (Survival International) said that although the Somali nation consisted of one ethnic group with a single language, it was divided into clans and groups of clans sometimes called clan-families. Several clan groupings were held to be hostile to the current régime and people belonging to them might be killed or imprisoned whether or not they were themselves

involved in anti-government activities. The Isaaq, who lived mainly in the north west of the country, were one of the principal clan families. In 1961 members of the Isaaq had been at the forefront of the movement to unite the Somali people into a single national State. Since that time, however, they had become increasingly disillusioned by what they felt to be the discrimination against them on the part of the Mogadishu Government which was based in the south of the country.

90. Discontent among the Isaaq business community and intellectuals had led to the formation of the Somali National Movement (SNM) which had conducted a low level guerrilla campaign in the north-west of the country from bases in Ethiopia. The Government had adopted increasingly harsh counter-insurgency measures including a scorched earth policy to control the rural areas along with measures to ruin the Isaaq business community. At the end of May 1988 the conflict had developed into a full-scale civil war accompanied by indiscriminate bombing by the Government of the civil population leading to an estimated total of at least 5,000 unarmed Isaaq civilians killed by March 1989. The result had been the virtual elimination of the Isaaq as an urban population and, by 1990, an estimated 300,000 were living in refugee camps in Ethiopia, the remainder being scattered in nomadic groups. In addition to abuses by the regular military, there had been violence against the Isaaq by some of the refugees previously settled in camps in the region who had been armed and recruited by the Somali Government. That situation had laid the refugee community open to retaliation by the SNM.

91. Among several hundred Isaaq detained by the authorities on suspicion of being SNM sympathizers were prominent businessmen and political leaders who had in fact no connection with the rebels. Isaaq civilians in the south had also lost their lives and, on 16 July 1989, 47 Isaaq males had been rounded up by the military police in Mogadishu and later shot.

92. Mr. GUMILAR (Liberation) said that the present period of development policy in Indonesia, known as "Pancasila Democracy", was devoted to economic development, with the focus on reversing economic decline. Political stability had been imposed by means of a single loyalty: everyone must believe only in Pancasila, the "sole principle".

93. Political culture in Indonesia had declined. Today there was no such thing as people's participation, the essence of democracy. All power was centralized, the bureaucracy prevailed and there was a crisis of legitimacy. Indonesian political culture suffered from the weakness of people's organizations, the weakness of the middle class and its dependence on the State. All that had bred a culture of keeping silent, of opposing change and of disregarding basic human rights, including collective and traditional rights. Basic human rights were violated by an apparatus of repression and the enactment of unjust laws that excluded people's participation and benefited the ruling power, restricting the right to organize, the right of assembly, freedom of speech and the right to decent social services. A false perception had been created, based not on an awareness of rights but only on obedience and duty.

94. The militarization of society had resulted in rigidity and authoritarianism in all sectors, producing a bureaucratic, repressive and fascist system.

95. The most serious violations of people's collective and traditional rights were perpetrated by the ruling clique and powerful capital interests, which not only trampled underfoot the people's self-respect but destroyed their productive activities, reducing them to dire poverty. He welcomed Commission resolution 1989/13 which drew attention to the economic, social and cultural rights of the the most vulnerable and disadvantaged members of society. He wished to give the Sub-Commission some idea of the kind of violations occurring in Indonesia.

96. Pulau Panggung in South Lampung was a transmigration region where after 1959 some 1,000 transmigrant families had created a prosperous coffee plantation economy. The transmigrants had ultimately become lawful local inhabitants with full land rights. In November 1988, the sub-district chief had issued an instruction that 1.5 million hectares must be vacated, including all the land owned by the transmigrant families. They refused to move and next day their homes were burnt down, along with stocks of rice and coffee and all their personal possessions. In February 1989, hundreds of Pulau Panggung peasants, escorted by human rights activists, had taken their complaint to Parliament in Jakarta. On their return home, the security forces had intimidated the peasants while army intelligence hunted down the activists.

97. A similar case had occurred in Cibodas, West Java, involving land used to grow vegetables since 1948; 286 families living off that land had been told to leave and make way for a golf course and tourist accommodation. In Blangguan, East Java, villagers had been ordered to move from their kampung to make way for a training-ground for marines. In Majalengka, Cirebon, West Java, agricultural land was being vacated for an air force base. In Central Java, the inhabitants of two villages had been told to move out in order to make way for tourist attractions.

98. In Central Java, many thousands of peasant families had resisted orders to vacate land for a World Bank-funded dam in Kedung Ombo, rejecting the pitiful compensation offered and defying orders to move to transmigration sites many hundreds of miles away. In accordance with Sub-Commission resolution 1983/35, he urged that the case, which was a clear example of how human rights abuses resulted from the practices of the World Bank, should be studied.

99. Mr. RETUREAU (World Federation of Trade Unions) said that the Charter of the United Nations and the Universal Declaration of Human Rights did not establish an order of seniority between civil and political rights and economic, social and cultural rights. The fact that those rights gave rise to two different covenants and monitoring systems in no way changed their indivisible nature.

100. It had been the experience of the trade union movement that possession of political rights did not guarantee workers social, economic and cultural rights that would enable them to live in dignity and to satisfy their essential needs, which were spiritual and intellectual as well as material.

101. Civil and political rights tended to remain abstractions when democracy did not extend to the sphere of production and trade, to trade-union rights and the rights of workers to participate in the management of enterprises and

to have a choice in respect of economic and social policies. Reciprocally, social and economic rights tended to diminish if they did not go hand in hand with the genuine implementation of civil and political rights in social and working life.

102. In the apartheid system, for instance, racial discrimination was both political and economic. The denial of civil and political rights was coupled with discrimination in access to education and in wages, qualifications, living and working conditions, housing, social welfare and so on. Strikes and claims made by trade unions met with increasingly violent and often bloody repression, as in the recent transport strike when dozens of militant trade unionists had been killed.

103. In the Arab territories occupied by Israel, the repressive legislation and practices of the military authorities affected both civil and political rights and economic, social and cultural rights. Trade unionists were prosecuted and sometimes imprisoned for years without grounds or deported. Educational establishments and those of UNWRA had been prevented from operating for long periods.

104. None of the human rights recognized in treaties could be isolated from the rest. The fact that they had been divided and some given priority over others had occurred because of considerations of ideological conflict rather than historical fact. His organization therefore endorsed the unifying approach of Mr. Türk's report and agreed that the perception of the importance and place of the various aspects of human rights continued to evolve.

105. The common conceptual basis that existed in the different instruments, namely the dignity inherent in every person, had been emphasized by Mr. Türk. That ethical and philosophical concept was a product of history, but in bestowing on the individual inviolable and sacred rights, liberal doctrine had cut him off from his roots and his links with society, thus subjecting him to the imprisoning influence of social forces beyond his control.

106. Social, economic and cultural rights replaced the individual in the real world, together with all members of society and all legal, political, economic and social institutions both national and international.

107. The upheavals in the countries of the third world and, more recently, in the socialist countries of Eastern Europe gave rise to questions about disparities and inequalities in contemporary international order.

108. The concept of the new international economic order had been virtually forgotten. Under the pressure of external debts and structural adjustment policies, the rights to development and economic sovereignty had been eclipsed and the present Uruguay Round negotiations confirmed the impression that the capitalist industrialized countries had regained control and that international economic and social inequality was becoming more acute.

109. Transnational corporations continued their activities without any control, for national law could not deal with them and the relevant international law was extremely vague and restricted, limited to an ILO declaration of principles of social policy and a United Nations draft code of conduct which had led to nothing. There was no real monitoring machinery.

110. Could one really talk about the effective implementation of social, economic and cultural rights without giving more attention to effects of the activities of transnational corporations on those rights? Such corporations concluded contracts that resembled treaties, and the turnover of the largest ones was much greater than the national budgets of many States. They enjoyed immunities and privileges, particularly in free zones where there was no right to work or trade-union rights. They exploited the resources of countries without any commitment to contribute to development; indeed, their financial transfers were such that poor countries became net exporters of capital to rich ones.

111. Mr. ARNOTT (World Conference on Religion and Peace) said that the transfer of values from North to South was a major factor in the breakdown of cultures, inducing cultural dependency and reducing the possibility for the target people to make a real choice of their path of development. Values were transferred by many means, including education, tourism, religious proselytizing and especially by the operations of the transnational corporations which controlled or produced the images for most media outlets in developing countries. The values of the dominant culture were projected with such energy as to be virtually irresistible and were an equivalent to the exertion of force. Such a transfer of values violated various human rights, including the right of a people to develop its own culture, the right to development and more generally the right to self-determination.

112. Most discussions on colonialism, neo-colonialism and decolonization, and the implementation of economic, social and cultural rights as expressed in the report before the Sub-Commission, had tended to focus on economic and political factors. The transfer of values, however, operated in the field of culture, which was social and mental. Messages and images originating in the industrial societies of the North, which reflected the thinking, ideas and values of those societies were used as the channel for transmitting value systems to a given region which were foreign to the peoples of that region. The economic and cultural authority of the countries of origin was so great and the technologies of transmission so powerful that in the end they wiped out the values of those peoples, thus becoming, even if unintentionally, instruments of cultural alienation and dependency. Cultural dependency went together with economic dependence, since it predisposed people to the pattern of production and consumption of wealth introduced into developing countries. Cultural dependency deprived people of the right to pursue cultural self-determination, a right enshrined in numerous international instruments including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights and the study by Hector Gros Espiell on the right to self-determination and the conclusions of the Global Consultation on the Right to Development.

113. Given the depth and extent, complexity and devastating consequences of the transfer of values from North to South, his organization requested the Sub-Commission to produce a multi-faceted study of the issue, which could suitably be incorporated into Mr. Türk's second progress report on the realization of economic, social and cultural rights to be presented to the Sub-Commission at its forty-third session.

114. Mrs. ECHEVERRIA (Habitat International Coalition) said that it was encouraging that many of the key elements of the right to adequate housing had been recognized in the report of the Special Rapporteur (E/CN.4/Sub.2/1990/19)

and by various members of the Sub-Commission. Her organization considered that the Sub-Commission should expose activities and laws that infringed that right, encourage States to adopt policies and laws to realize that right, and further develop legal standards and guidelines.

115. It was imperative that forcible eviction should be viewed as a violation of the right to housing and recognized as a practice related to, though distinct from, other involuntary movements of people. That view needed to be reaffirmed by human rights bodies until the practice was eliminated from so-called development policies.

116. Some of the more negative aspects of the right to property, which constituted a basis for land speculation and eviction, continued to prevail over the right to a place to live in peace and dignity. States should recognize that everyone without distinction had an equal right to decent housing. It would be very useful if the Sub-Commission could draft model legislation aimed at preventing and prohibiting forcible eviction and if it could adopt planning guidelines for international development projects, which often involved eviction.

117. In many countries the poor, the homeless or the inadequately housed were often viewed as criminals. Clearly there was something wrong with legal systems that labelled the majority of the urban population as "illegal" when its only choice of obtaining the basic human rights conveniently denied or ignored by society was to take action contrary to the law. International legal analyses should be carried out to rectify the contradictions between human needs and the legal status quo.

118. People themselves have made the major contribution to fulfilling housing needs, rather than the State or the private sector. Although States had begun to recognize the limits of the public and private sector and to guarantee the right to housing, many of them continued to carry out policies of eviction at the same time.

119. The State and the market were not the only factors in society: there was another extremely important agent, frequently ignored, consisting of people and social organizations. Policies and laws should be promoted to ensure their actual participation in decision-making on housing issues, to protect their housing organizations and to stop the persecution and killing of civic leaders who defended those rights.

120. Governments should promote housing rights by giving legal security of tenure, which would encourage improvements to housing and provide protection against eviction, discrimination and other encroachments in the domestic sphere.

121. Many civil and political rights were meaningless to people unable to achieve their rights to a decent home. What did the right to freedom of movement mean to communities forcibly transported after their homes had been destroyed by bulldozers? What did the right to privacy mean when a family was forced by poverty to sleep on the pavement? Did homeless people have the right to choose their place of residence? What did the right to political participation mean in countries that denied the vote to anyone without an official address? How could people enjoy the right to development if they had nowhere to live? Habitat International Coalition urged the Sub-Commission to recognize those realities and take action accordingly.

122. Mrs. GUZMAN (Latin American Federation of Associations of Relatives of Disappeared Detainees) said that her Federation wished to point out the close relationship between economic, social and cultural rights and civil and political ones.

123. Unequal economic development in different countries, made more acute by the weight of the external debt, was having extremely serious consequences for peoples which until recently had had a relatively high standard of living. In Venezuela, for instance, conditions had declined considerably since the previous year.

124. In February 1989 the Government had decided to increase transport costs, which, together with an artificial food shortage, had provoked a spontaneous reaction from the people, particularly in Caracas, where attacks were made on markets and other sales points for items of first necessity. Since the police was unable to control the situation, the Government had ordered the armed forces to intervene. There had been many casualties and a Committee of Relatives of Victims of the Events of February and March 1989 had been set up, whose investigations had shown that over 390 persons had died from indiscriminate shooting or arbitrary execution. There had been three disappeared persons and dozens of wounded. In addition property had been damaged by indiscriminate shooting and raids.

125. More than a year later the relatives were still trying to clarify matters. Almost all the cases were being considered by the military courts. There was a conflict of jurisdiction and the Supreme Court had to decide which court would deal with over 200 cases in the hope of establishing responsibility and trying and punishing the culprits. The families who were the victims of those events had been affected economically, in addition to the suffering caused by the loss of their loved ones. The events she had described constituted an example of the adverse consequences of economic measures imposed by international economic interests.

126. Ms. SALAZAR MARROQUIN (International Federation of Human Rights) thanked Mr. Türk for his contribution to the study of economic, social and cultural rights. In many countries, the problem of the land was of very great importance, as Mr. Türk had recognized in paragraph 121 of his report (E/CN.4/Sub.2/1990/19).

127. For indigenous peoples, the land constituted the basis of all life and culture. When their right to land was not respected, their cultural rights as well as their economic and social rights were infringed.

128. Guatemala was a case in point. Seventy per cent of the population was indigenous and in the course of 500 years had been deprived of its land. A study on land and labour in Guatemala had revealed that in 1982, out of a population of 7 million, 419,620 peasants were landless. Seventy-eight per cent of the land-owners possessed approximately 10.5 per cent of cultivated land. On the other hand, 65 per cent of the land was in the hands of 2.56 per cent of the landowners. The situation had become even more acute in the last decade.

129. In a pastoral letter from the Episcopal Conference of the Catholic Church of Guatemala, the Bishops of Guatemala, had stated that the lack of land was

at the heart of the social problem in Guatemala. The majority of cultivable land was in the hands of a tiny minority while the majority of peasants did not even own a tiny piece of land on which to grow their crops.

130. Consequently, peasants had to work as seasonal labourers on large agro-exporting estates. The minimum wage for an agricultural worker was 4.5 quetzals per day, sometimes less, or less than \$US 1. The Government Institute for Economic and Social Research had estimated that in 1989 a family of five needed a minimum of 18 quetzals a day (\$6.74) to meet their basic needs.

131. In January 1990, some 60,000 agricultural workers on the south coast had gone on strike for a minimum wage of 10 quetzals and for improvements in working conditions. The Government reaction had been to send military units to the major farms. Thousands of peasants were checked by the security and police forces and lists of strikers were drawn up. Other workers were dismissed or left the region for fear of reprisals.

132. The problem of land had greater importance in a country like Guatemala where the majority of the people were peasants whose survival depended wholly on the land. In conclusion, however, she wished to draw attention to the consequences of the unfair distribution of wealth, particularly the high illiteracy, malnutrition, morbidity and mortality rates that affected some 6 million persons, and particularly the indigenous people in Guatemala.

133. Mr. do AMARAL SOUZA NETO (Observer for Brazil) said that his delegation was in broad agreement with Mr. Türk's preliminary conclusions at the end of Chapter I of his report, namely, that despite their limitations social and economic indicators could be useful in the realization of economic, social and cultural rights, in particular as a yardstick against which progress in their implementation could be verified. Properly elaborated and applied, economic and social indicators did have the potential to develop into a reliable mechanism for verification of compliance with international covenants.

134. Two aspects of the use of indicators were particularly relevant in that regard. First, it should be borne in mind that it would be impossible to apply universal indicators from monitoring compliance with economic and social rights in countries at different stages of development. The possibility of elaborating minimum or core indicators of the enjoyment of those rights applicable to all countries should not be excluded, and Mr. Türk had done a great deal of work towards that end in his report. He should be encouraged to pursue that effort as well as to study further ways and means of reflecting differences in development levels across countries in any indicators used. Second, social and economic indicators measuring the domestic situation of any country must be coupled or looked at in conjunction with indicators that could give a proper measure of the interaction between the world economy and that of the country concerned. He would illustrate his point with the case of Latin America.

135. The 1980s had been a lost decade for most of the Latin American economies. The GNP of the Latin American and Caribbean region as a whole, had increased by almost 40 per cent in the 1970s, had declined by about 7 per cent between 1980 and 1988. Only five of the countries in the region had had a per capita GDP in 1988 greater than in 1980. That situation was

largely the combined result of the massive transfer of resources abroad for debt-servicing purposes, a decrease in investment inflows and rampant protectionism by developed countries. As a result of the stagnation of the region, economic and social indicators in Latin American countries were likely to have shown little, if any, improvement at all during the 1980s. In some case they might well have worsened.

136. He therefore believed that domestic indicators should be read in conjunction with another set of indicators designed to measure the interplay between the external economic environment and the national economy. The United Nations Conference on Trade and Development had a wealth of knowledge in that area and could therefore assist the Special Rapporteur in his endeavours.

137. The principle of co-responsibility recognized by the international community for the protection of human rights had not been extended to the creation of international economic conditions making it possible for those rights to be fully realized. The very idea of international co-operation for development, which had been on the international agenda in the 1960s and 1970s, had been replaced in the 1980s by a trend in the industrialized nations towards a sort of disassociation between decisions taken in the economic and financial sphere and the human rights debate.

138. He acknowledged the primary responsibility of each country in the task of trying to resolve domestic problems. But such a task would be made easier or more difficult by the conditions prevailing in the international environment. Reviving the issue of international co-operation for development was therefore certain to contribute very significantly to the realization of economic, social and cultural rights and, by extension, of all human rights.

139. Mr. Türk took the Chair.

140. Mr. WIELAND (Observer for Peru) congratulated Mr. Türk on his progress report and said that the elaboration of social and economic indicators was a delicate task that deserved due recognition. The study of extreme poverty was of particular importance in view of the urgent need to save its victims from a form of moral, physical and psychological torture incompatible with the raison d'être of civilized society. Although standard-setting in the field of economic, social and cultural rights might appear less important than the question of extreme poverty, it deserved all the more attention in view of the scant interest devoted to it by the Commission on Human Rights and the Sub-Commission. Although attention tended to focus on civil and political rights, the interdependence of rights meant that it was impossible to realize one category of rights without at the same time realizing all the others. The error of assuming that some rights should be given priority over others was demonstrated by the fact that it was impossible for people living in extreme poverty to enjoy either their social and political rights or their economic, social and cultural rights.

141. He suggested that the Sub-Commission should examine the desirability of initiating a meaningful dialogue not only with international financial institutions, but also with the principal organizations involved in research into the international economy in order to provide a basis for a broader international discussion on means of establishing a set of international economic relations more favourable to the developing countries, whose

dependence on decisions taken by developed countries and by transnational corporations severely restricted their ability to make the necessary adjustments to their own economies.

142. It was necessary to recognize that while countries could be held individually responsible for the realization of civil and political rights, responsibility for economic, social and cultural rights was shared by all.

143. Mrs. KSENTINI commended the report by Mr. Türk on a field whose vastness and complexity made the task he had performed all the more appreciable. The report marked a major milestone towards the recognition of the importance of economic, social and cultural rights and placed particular emphasis on the role of social and economic indicators in that respect. The term role was perhaps inappropriate, as the indicators constituted a means of assessing the progress made but were not capable, in themselves, of bringing about the realization of those rights. It was perhaps more to the point to examine what factors, both domestic and external, could influence the indicators in question, and she endorsed the observations made in that respect by the observers for Brazil and Peru. She wondered whether it was possible to establish a series of indicators capable of being universally applied, as it was perfectly possible for a country to achieve a high GDP that none the less masked deep inequalities. The indicators were also affected by cultural factors and it was necessary to inquire whether satisfactory indicators meant that economic, cultural and even civil rights had actually been realized. Development in one sector could go hand in hand with, and even undermine, a series of cultural rights and even a way of life.

144. It was also necessary to emphasize the question of popular participation in decision-making with regard to development projects; popular participation was vital if the right to development as well as a number of other rights were to be realized. Certain régimes might deny fundamental rights and practise systematic discrimination without the fact being reflected by the indicators, as the latter could be manipulated by the régime in power.

145. In short, the indicators should be treated with caution, and their limits borne in mind. The Special Rapporteur had himself mentioned the limitations of the indicators in paragraph 8 of his report, together with the problem of their use, and had identified 13 main shortcomings.

146. She concurred with the Special Rapporteur as to the indicators available within the United Nations system to assess the realization of economic, social and cultural rights, but stressed the need to adjust them in order to take factors that could affect them into account. Greater stress should also be placed on the duties of States pursuant to international human rights instruments and a distinction should be made between what States were required to do and what not to do.

147. The next report should place greater emphasis on cultural rights and on conceptual aspects of the interdependence and indivisibility of all human rights. The proposals made by the Special Rapporteur in relation to standard-setting mentioned the right to housing and land rights. However, she suggested that a more global approach, with a view to codifying economic rights and the rights enunciated in the Declaration on the Right to Development was desirable, although she recognized that a sectoral and a global approach could be complementary.

148. Mr. SACHAR hoped that the report by Mr. Türk would help to settle the controversy as to whether human rights should merely encompass the political rights emphasized by the West or whether they should also cover economic rights, as advocated by the East. It had been postulated in a number of international law organizations that the new international economic order required an adjustment by the North to share its wealth with the South, and if that order was to be correlated with human rights it had fundamentally to devote itself to that part of the world where most poverty was to be found.

149. The indicators were a very useful tool to avoid the danger of being carried away by rhetorical niceties and of ignoring the specific components of human rights. He suggested adding to the indicators figures to show the percentage of GDP consumed by the top 10 per cent of the population as an additional means of assessing the distribution of wealth within a society and underscoring a central fact: while it was well known that large numbers of people were totally poor, there were also others who were vulgarly rich.

150. Paragraph 72 presented a list of variables indicating development, and he drew attention to the importance of the sixth core indicator, that of water supply. It was impossible to imagine human rights if a large part of the population was denied access to safe drinking water.

151. He endorsed the importance attached by the Special Rapporteur, in paragraph 90, to gender-based indicators and noted that the most recent South Commission report had confirmed their crucial nature. A change in social attitudes to women was an absolute social necessity as there were still countries in which the status of women left much to be desired.

152. There was still a considerable gap between the concerns of the rich and the poor countries in respect of human rights, and it was essential to focus on rights which, while taken for granted in the North, still had to be attained elsewhere. The report recognized the importance of land rights and agrarian reform in the developing countries, a fact that was perhaps not fully appreciated in the West, as land was not only an emotional issue, but a question of dignity: persons without land were often considered as outcasts from the community or even as non-persons.

153. There was one responsibility in particular which the North would have to assume. The conditionality that was often attached to aid meant that the countries of the South had to model their policies, economies and structure in order to meet the needs of the North. The South Commission had underscored the subordinate relationship between South and North and the "take it or leave it" basis on which suggestions for change were offered to the former. Solutions that were suited to conditions in the North were not necessarily appropriate in the South, where, for example, labour-intensive solutions might be preferable to capital-intensive ones.

154. In order to protect human rights, it was vital to treat political and economic rights as an indivisible whole and to recognize that freedom to fashion economic rights was impossible without the freedom to exercise political rights. Lastly, popular participation in poverty elimination schemes should be encouraged to avoid the trend whereby the funds channelled into such schemes often benefited a small number of recipients.

155. Mr. TREAT described the report by Mr. Türk as a landmark report and said that he had provided the members of the Sub-Commission with long-needed guidance. He subscribed to the remarks made by Mr. Sachar regarding the ease with which the West had identified economic and social problems that needed to be addressed and the contrasting difficulty it experienced in providing solutions. The need to create greater equality of income throughout the world was universally recognized, on account of the host of problems that inequality generated. It was now necessary to turn attention to ways and means of creating better societies in the South. Political aspects were, as Mr. Sachar had said, of great importance; that was illustrated by developments in Eastern Europe, where some of the economic failures that had occurred were attributable to the political systems of countries and where hopes of long-term improvement were inseparable from the introduction of the market system.

156. Although advocacy of such changes might irritate people who felt that Western countries were once again setting standards unsuited to other circumstances, he pointed out that there were many private and public organizations in the West that were deeply committed to improving the standard of living in other countries of the world.

157. Mr. GUISSÉ thanked Mr. Türk for his report which placed economic, social and cultural rights on an equal footing with political rights. He wished to raise a number of issues that would undoubtedly be dealt with by the Special Rapporteur in his next report. Firstly, for the developing countries, the social and economic indicators mentioned in the report possessed a different substance and significance and overlapped to such an extent that resembled the earlier indicators that had considerably complicated the economic situation of the developing countries. Although the definition provided for each indicator at first sight appeared satisfactory, it required interpretation, and interpretation could easily lead to a selective approach - hence the need for greater precision. From the purely economic angle, the indicators constituted impediments that might prevent the developing countries from participating in the international economic and political arena. If his own country, of Senegal, for example, accepted the indicators, it might be barred from submitting a report to the Committee on Economic, Social and Cultural Rights merely on the grounds that it had failed, for example, to meet a public health indicator, without any consideration being given to the causes of such a failure. Those causes were in part domestic, but above all external. The content of the much-debated new international economic order had as yet to be defined, and scant attention was paid to the imbalance that resulted from the constant deterioration in the terms of trade. Senegal was obliged to devote a considerable part of the resources available for development to reimbursing its debt, thereby further intensifying its underdevelopment. The remark that the developing countries were in fact on the path towards underdevelopment was far from being unfounded. The debt prevented them from achieving, for example, the education and health indicators set by the report and was directly responsible for hunger and poor housing. No progress in respect of those indicators was possible without better solutions to the debt problem, no matter what sacrifices the developing countries might make.

158. In discussing the indicators it was necessary to take into account the root causes of poverty, and to use the indicators to provide guidance in order to help developing countries deal with those causes. As they stood, the indicators rather constituted a means of exacerbating underdevelopment.

159. Although the report had covered a wide range of issues, it had unfortunately skimmed some of them, such as the implementation of economic, social and cultural rights in rural areas, where populations were often unaware of their rights. Much work had to be done to familiarize the population with their economic, social and cultural rights before addressing ways of realizing them. Lastly, health had become extremely costly, and health and wealth were increasingly becoming synonymous.

REVIEW OF FURTHER DEVELOPMENTS IN FIELDS WITH WHICH THE SUB-COMMISSION HAS BEEN CONCERNED (agenda item 4) (E/CN.4/Sub.2/1990/4, 5, 6, 9, 10, 11 and 17; E/CN.4/Sub.2/1990/NGO/3 and 23)

160. Mr. MARTENSEN (Under Secretary-General for Human Rights), introducing agenda item 4, said that its objective was to ensure that the Sub-Commission was kept informed of activities undertaken in its field by other United Nations bodies and specialized agencies. At previous sessions, the Sub-Commission had discussed recent activities of the International Labour Organisation and the United Nations Educational, Scientific and Cultural Organization in relation to matters with which it dealt. The reports of those agencies on their activities in that field would be available in documents E/CN.4/Sub.2/1990/5 and E/CN.4/Sub.2/1990/6.

161. The agenda item included a number of new areas such as the protection of journalists, in respect of which the Sub-Commission had, by resolution 1989/2, requested Mr. Waleed Sadi to prepare, without financial implications, for the use of the Sub-Commission at its forty-second session, a report on the feasibility of a study on ways and means to extend additional protection and assistance to journalists and mass media personnel while they carried out their duties with objectivity and fairness. That report (E/CN.4/Sub.2/1990/17), was now before the Sub-Commission.

162. In resolution 1989/11, the Sub-Commission had recommended to the Commission on Human Rights that it should emphasize the need to enhance the effectiveness of, and co-ordination between the human rights monitoring mechanisms established within the United Nations framework, and to increase their impartial contribution to the promotion and protection of human rights and fundamental freedoms in all parts of the world, and to constantly improve their relevant procedures. In the same resolution, the Sub-Commission had recommended that the Commission should request the Secretary-General to consider convening, not later than 1991, an international meeting of experts on issues related to the international monitoring in the field of human rights and to inform the Sub-Commission at its forty-second session. At its forty-sixth session, the Commission had decided to postpone consideration of the subject-matter to its next session in 1991.

163. By resolution 1989/13, the Sub-Commission had decided to entrust Mr. van Boven with the task of undertaking a study concerning the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms, taking into account relevant existing international human rights norms on compensation and relevant decisions and views of international human rights organs, with a view to exploring the possibility of developing some basic principles and guidelines in that respect. It had also requested Mr. van Boven to submit a preliminary report which was now before the Sub-Commission (E/CN.4/Sub.2/1990/10).

164. At its forty-first session, the Sub-Commission had, in resolution 1989/14, taken note with appreciation of the working paper prepared by Mr. Türk in accordance with its decision 1988/110 (E/CN.4/Sub.2/1989/26), endorsed his recommendations and decided to entrust Mr. Joinet and Mr. Türk with the preparation of a study on the right to freedom of opinion and expression, the current problems of its realization and on measures necessary for its strengthening and promotion. By its resolution 1990/32, the Commission had endorsed the Sub-Commission's resolution and recommended that the Economic and Social Council approve entrusting that study to Mr. Joinet and Mr. Türk, whose preliminary study (E/CN.4/Sub.2/1990/11) was now before the Sub-Commission.

165. Traditional practices affecting the health of women and children had been discussed by the Sub-Commission since its thirty-sixth session. At its forty-first session, in resolution 1989/16, the Sub-Commission had taken note of Mrs. Warzazi's preliminary report (E/CN.4/Sub.2/1989/42 and Add.1) and recommended, *inter alia*, that her mandate should be extended for two years so as to enable her to present a more complete report, and that the subject of traditional practices should be on the agenda of the Sub-Commission for sustained follow-up. At its forty-sixth session, the Commission on Human Rights had, by decision 1990/109, approved the recommendations of the Sub-Commission. It had also taken note of the decision on traditional practices taken by the Committee on the Elimination of Discrimination against Women at its ninth session under article 21 of the Convention on the Elimination of All Forms of Discrimination against Women, and had requested that the Special Rapporteur conduct her work in close consultation with the Committee.

166. At its forty-first session, after discussing the concise note prepared by Mr. Varela Quirós (E/CN.4/Sub.2/1989/5), the Sub-Commission had decided, by resolution 1989/17, to entrust Mr. Varela Quirós with a study of problems and causes of discrimination against HIV-infected people or people with AIDS. It had recommended that the Special Rapporteur should take into account Commission resolution 1989/11 and the issues and guidelines of the International Consultation on HIV/AIDS and Human Rights convened in Geneva from 26 to 28 July 1989, as well as the views expressed by the members of the Sub-Commission. It had also recommended that he should carry out his study in close co-operation with WHO. The preliminary report by Mr. Varela Quirós (E/CN.4/Sub.2/1990/9) was now before the Sub-Commission.

167. With regard to human rights in times of armed conflicts, the Sub-Commission had considered, at its fortieth session, the interrelationship between human rights and international peace and had recommended, by resolution 1989/24, a draft resolution on the subject for adoption by the Commission on Human Rights. At its forty-sixth session, the Commission had adopted resolution 1990/66, in which it noted that the States Parties to the four Geneva Conventions of 1949 and to the two Additional Protocols of 1977 had undertaken to disseminate those instruments as widely as possible and, in particular, to include the study thereof in their programmes of military instruction. The Commission recommended that the instruction should also include the transmission of knowledge of the relevant human rights instruments as well as of the Code of Conduct for Law Enforcement Officials, the Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles on the Independence of the Judiciary. The Commission had requested the Secretary-General to transmit its resolution to all Governments requesting

information on the scope of education provided to members of the police and armed forces and had also requested him to submit to the Sub-Commission at its forty-second session, an analytical review of the replies received from Governments (E/CN.4/Sub.2/1990/8).

168. The agenda item also included the question of a draft body of principles and guarantees for the protection of mentally-ill persons and for the improvement of mental health care, a study on relevant guidelines in the field of computerized personal files, particularly as they affected the privacy of the individual, the status of special rapporteurs and the status of the individual and contemporary international law. The Sub-Commission had made tangible contributions to those issues, which had been sent for further consideration and deliberation by the Commission on Human Rights, the Economic and Social Council, the International Court of Justice and the General Assembly. The outcome of those deliberations was elucidated in the annotations to the provisional agenda.

169. Finally, he drew the attention of the members of the Sub-Commission to Commission resolution 1990/76, entitled "Co-operation with representatives of United Nations human rights bodies" in which the Commission called on all Governments receiving representatives of United Nations human rights bodies to provide effective advance information to them, to allow unhampered contacts between private individuals and such representatives and to remove all legal and practical obstacles which would unduly prevent or discourage such contacts. The Commission had requested all representatives of those bodies reporting to the Commission or to the Sub-Commission on violations of human rights, in the exercise of their respective mandates, to take urgent steps, in conformity with their mandates, to help prevent the occurrence of intimidation or reprisal and to devote special attention to the question in their respective reports to the Commission or Sub-Commission.

170. Mr. VALERA QUIROS, introducing his report on discrimination against HIV-infected people or people with AIDS (E/CN.4/Sub.2/1990/9), said that there could be no starker illustration of the tragedy affecting mankind as a result of the AIDS pandemic than WHO's recent estimate according to which between 8 and 10 million people were AIDS victims. The former director of WHO'S Global Programme on Aids had observed that AIDS was not merely a public health problem in the narrow sense of the term, but a challenge whose social, cultural, economic and political consequences for mankind were enormous.

171. His preliminary report did not attempt to cover the many aspects of so complex a problem but merely to focus, in accordance with Sub-Commission resolution 1989/17, on the discrimination to which the phenomenon gave rise. The report did not mention or question the practice adopted by any particular country, as objective data was in the process of being compiled for presentation in a subsequent report, and he requested all States, government agencies and NGOs concerned to assist him in that task. A questionnaire would be prepared in the course of the following year, with the assistance of WHO and the Centre for Human Rights, for circulation to Governments and NGOs in order to obtain specific information for the second report.

172. It was apparent that the types of discrimination practised were generally attributable to a lack of proper information, as a result of which people reacted towards AIDS victims out of ignorance and fear. Occasionally, that fear was also compounded by racial or sexual factors and by xenophobia, and could lead to serious social tensions and jeopardize fundamental rights.

173. There was no question of the need to adopt measures to prevent the spread of AIDS, but any steps taken should be rational ones and should not jeopardize life or other fundamental human rights. Individuals with AIDS also had a duty towards society to act responsibly and not to threaten the health of others. While most legal systems possessed means of dealing with irresponsible behaviour, it would be unacceptable if HIV-infected people or people with AIDS were discriminated against, denied access to health care or prevented from exercising their human freedom. Prevention and control rather than intolerance and persecution had to be the cornerstones of the struggle against AIDS, and States should implement campaigns to provide the population with comprehensive information on the disease.

174. The report's summary of some of the forms of discrimination against people with AIDS was neither exhaustive nor definitive, and would be developed to take into account the observations and suggestions made by the members of the Sub-Commission, particularly on chapter III. In preparing his report, he had maintained permanent contact with WHO's Global Programme on AIDS and with the Centre for Human Rights, both of which had provided invaluable guidance for which he expressed his sincere thanks. He also thanked the numerous NGOs which had provided, and which he hoped would continue, to provide invaluable assistance.

175. Mrs. Mbonu took the Chair.

176. Mr. van BOVEN introducing his preliminary report on the right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms (E/CN.4/Sub.2/1990/10), welcomed the interest shown in his report by a number of organizations and individuals as well as by the United Nations Committee on Crime Prevention and Control. He hoped that he would be able to follow up his preliminary report, the purpose of which had been to outline the main issues, by an interim report the following year and his final report in two years' time. He invited members of the Sub-Commission and representatives of NGOs to make comments to help him in his future work and said that, in view of the lack of time, he would willingly accept comments in writing after the session.

177. Chapter I of his report contained a review of the most relevant international human rights norms, norms in the area of crime prevention and criminal justice and international humanitarian law norms. Chapter II contained a very preliminary study of the international legal implications of the right to restitution, compensation and rehabilitation under customary international law, in which respect the doctrine of State responsibility, illustrated by the landmark Chorzów Factory (Indemnity) Case, was of major importance.

178. The area in which he most needed guidance was that covered by chapter III, in which he had identified five main issues: the obligation to grant compensation under international law; entitlements to compensation; various types of compensation; from whom compensation could be sought and whether a period of limitation applied. As his mandate specifically focused on victims of gross violations of human rights and fundamental freedoms, he had first of all had to determine what constituted a gross violation of human rights. In doing so, he had made use of section 702 of the Third Restatement of the Foreign Relations Law of the United States, from which the gross violations identified in paragraph 38 had been drawn. That

restrictive definition did not mean that the victims of violations other than gross violations did not have a right to compensation or reparation, but was merely a reflection of his mandate.

179. A further issue was the various types of compensation. Although the type of compensation that immediately sprang to mind was financial compensation, compensation could also be of a material, medical, psychological and social nature. In many cases, the acknowledgement that a wrong had been committed constituted a most important form of compensation. The question of from whom compensation could be sought also required development. Although he had interpreted his mandate solely from the point of view of the responsibility of States, there had been cases in which other entities, such as industrial concerns, had been responsible for violations of human rights. Moreover, he was prepared to extend his mandate to cover, not only acts and omissions imputable to States, but also failure by States to take the necessary preventive measures.

180. Lastly, with regard to the question of the applicability of a period of limitation, he had come to the preliminary conclusion that there were weighty arguments against such a limitation, in view of the very nature of the crimes concerned.

181. Mr. JOINET, introducing the report on the right to freedom of opinion and expression (E/CN.4/Sub.2/1990/11), which he had prepared in conjunction with Mr. Türk, apologized for the technical nature of the report, which had been made necessary by the scant bibliographic material available on the subject. Contrary to what was commonly assumed, the right in question was one from which derogations were possible, and not even those countries which considered themselves the most democratic accepted total and unrestricted freedom of expression. The Special Rapporteurs had embarked on the perilous task of determining what restrictions and derogations were admissible, thereby implicitly acknowledging that freedom of expression was never absolute.

182. Notwithstanding the technical nature of the report, if the members of the Sub-Commission read between the lines, they would conclude that first of all it was no mere coincidence that the Sub-Commission had to consider to an increasing extent the relationship between rights from which derogations were possible and human rights. The Special Rapporteurs had attempted to analyse the restrictions and derogations and had identified a fundamental distinction made by all major legal systems: the distinction between the situation in time of peace and time of crisis. In time of peace, restrictions were subject to three almost universally recognized major conditions: the legality of restriction, the principle of democratic necessity, and the principle of proportionality. Legality of restriction meant that restrictions had to be based on existing law, a condition that was in most cases contained in constitutions. Legitimacy of restriction meant that it was not sufficient for restrictions to be provided for by law, they could, moreover only be applied in a number of clearly defined circumstances. The most ambiguous principle was that of democratic necessity, which was only specifically mentioned in the European Convention on Human Rights. However, the requirement also existed, at least in two respects, in a number of other instruments which prohibited propaganda in favour of war and incitement to racial hatred.

183. The situation in times of crisis had been dealt with in the report by Mr. Despouy and Mrs. Questiaux (E/CN.4/Sub.2/1982/15), which identified the principles of proportionality and limitation in time.

184. He drew attention to chapter II on democratic processes and the elaboration of the concept of a democratic society, which was the only point on which convergence between different legal and political systems was possible. However, even under a pluralist system, it was possible for certain groups to exercise, for example, hegemony over the press, an issue on which he intended to focus the following year, taking care to avoid the pitfalls that had beset the debate on the same issue within UNESCO.

185. In France, the debate on permissible restrictions had focused on the right of racists to freedom of expression in the debate over "revisionist" historical views. The issue was extremely complex and involved not only freedom of expression but also censorship of certain types of research. Behind the technical arguments of the revisionists, there often lay racist ideas, and he asked the members of the Sub-Commission to allow the Special Rapporteurs sufficient time to analyse in depth the technical aspects of the issues in order to focus particular attention on it in the final report.

186. Mrs. WARZAZI recalled that at its fortieth session, the Sub-Commission had requested her to study, on the basis of information from Governments, specialized agencies, other intergovernmental and non-governmental organizations concerned, recent developments with regard to traditional practices affecting the health of women and children. Unfortunately, the lack of replies from Governments had prevented her from carrying out that task, and her mandate had been extended to allow her more time to encourage interest by Governments in the issue of traditional practices, one of which alone, female circumcision, affected 80 million women in Africa.

187. Since the previous session, only the NGOs concerned had shown a keen interest in the issue, with the noteworthy exception of the Government of Morocco which had recently sent its reply to the Centre for Human Rights. She had also had valuable contacts with an expert from outside the Sub-Commission.

188. Although female circumcision was still practised in Africa, the Senegalese Minister for the Condition of Women and Children had recently urged Senegalese residents in France to respect the values of their host country - particularly with regard to polygamy and female circumcision. As part of the effort to change traditional practices gradually through persuasion, a co-operation agreement had been signed between Senegal and France to provide information to potential immigrants and to set up a national information centre on the rights of women in Dakar. That agreement should serve as an example to other countries wishing to change traditional practices.

189. In resolution 1989/16, the Sub-Commission had extended the mandate of the Special Rapporteur for two years, recommended that she should undertake field missions if possible to countries where traditional practices were prevalent and recommended that two regional seminars should be held on the subject of harmful traditional practices. It had also urged the Centre for Human Rights to provide the necessary support and had recommended keeping the subject of traditional practices on its agenda for sustained follow-up. During the current year, she had prepared a programme of work which would be distributed to the members of the Sub-Commission, and which would provide a basis for the complete report to be submitted to it at its following session.

190. Mr. Türk resumed the Chair.

ORGANIZATION OF WORK (continued)

191. Mr. ALFONSO MARTINEZ recalled that the situation in the Oka and other Indian communities around Montreal had been a source of concern throughout the current session of the Sub-Commission. There had been persistent and alarming rumours that very morning as to the imminence of the use of force by the armed forces, and he asked when the Chairman would be able to make a statement on the situation.

192. The CHAIRMAN said that he had been in permanent contact with representatives of the Government of Canada and of a number of NGOs concerned and confirmed that the situation was indeed somewhat volatile. He confirmed that he would make a statement to the Sub-Commission as soon as he received any further information.

193. Mrs. WARZAZI asked for confirmation as to whether a non-governmental organization acting as a mediator between the Indian communities and the authorities had been instructed to cease its activities.

194. The CHAIRMAN said that he preferred to wait until the following day before providing any further information on the situation.

The summary record of the second part (closed) of the meeting
appears as document E/CN.4/Sub.2/1990/SR.30/Add.1